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A

COLLECTION
OF THE
PROTESTS
OF THE
LORDS OF IRELAND,

From 1634 to 1770.

N. Ireland. Lords, House of

LONDON:

Printed for J. ALMON, opposite BURLINGTON-
HOUSE, PICCADILLY. 1771.

Lately was Published,

The DEBATES of the HOUSE of COMMONS of IRELAND, during the years 1763 and 1764. Taken by Sir JAMES CALDWELL, Bart. To which is added, an Enquiry how far the restrictions laid upon the trade of Ireland, by British acts of parliament, are a benefit to the British dominions in general, and to the English in particular, for whose separate advantage they were intended. Dedicated, by permission, to the EARL of CHATHAM. In two vols. 8vo. Price 12s. bound.

As Ireland is become of late years much more an object of public attention than formerly, the parliamentary debates in that kingdom must become proportionably more interesting and important. In the debates of the above period, are many particulars which distinguish them from those of all preceeding years; and many questions are discussed, which must be the subject of debate in all times to come.—Among those now offered to the public are the following: On the peace. On pensions; in which both the legality and policy of those grants are fully considered. On inland navigation. The limitation of parliaments. The place-bill. The state of the nation. Libels, and the North Briton. Jobs and their tendency. Power of grand juries. Faction. A tax on dogs. Privilege of parliament. False patriotism mistaken for liberty. Licentiousness. Recovery of tythes. Power of magistrates; and on a great variety of other subjects equally curious and important. It may not be improper to mention, that these are the first speeches of the Irish parliament which have ever been published. The Enquiry became necessary by the frequent mention of the restrictions on trade in the debates: it is not however confined to the trade of Ireland, as it shews the rise of trade in general, what is its use when it attains perfection, and when it degenerates into excess.



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COLLECTION
OF THE
PROTESTS
OF THE
LORDS of IRELAND,

From the First upon Record, to the End
of the Session in *March, 1770.*

Die Saturni, 2^o die Augusti, 1634.
WENTWORTH.

WHEREAS at a Parliament holden
at *Drogheda*, on *Monday* next af-
ter the Feast of *St. Andrew* the
Apostle, in the Tenth Year of the Reign
of King *Henry* the Seventh, before Sir
Edward Poynings, Knight, then Lord De-
puty of *Ireland*, an Act was made, for
and concerning the Order, Manner, and
Form of Parliaments to be holden and
kept in this Realm of *Ireland*; whereby
it was ordained and established, that no
Parliament should be holden hereafter in
the said Land, but at such Season as the
King's Lieutenant and Council here
should first certify, the King, under the
Great Seal of this Land, the Causes and
B Considerations

Considerations of all such Acts as to them seemeth should pass in the same Parliament, and such Causes, Considerations, and Acts affirmed by the King and his Council to be good and expedient for this Land, and his Lycence thereupon, as well in Affirmation of the said Causes and Acts, as to summon the said Parliament under this Great Seal of *England*, had and obtained.

And whereas at a Parliament holden at *Dublin*, on *Tuesday* the first Day of *June*, in the Third and Fourth Years of the Reign of King *Philip* and Queen *Mary*, before Sir *Thomas Radcliffe*, Knight, Earl of *Suffex*, then Lord Deputy of this Kingdom, it was ordained, enacted, and established, that the said Act should be expounded, understood, and taken, as in the said Act of the Third and Fourth of King *Philip* and Queen *Mary* was declared, *viz.* That no Parliament should be summoned or holden within this Realm of *Ireland*, until such Time as the Lieutenant, Lord Deputy, Lord Justice or Lords Justices, Chief Govenor or Governors, or any of them, and the Council of this Realm for the Time being, should have certified the King and Queen's Majesty, her Heirs and Successors, under the Great Seal of this Realm of *Ireland*, the Considerations, Causes, and Articles of such Acts, Provisions, and Ordinance, as by

by them should be thought meet and necessary to be enacted and passed here by Parliament, and should have received again their Majesties Answer, under their Great Seal of *England*, declaring their Pleasures, either for passing of the said Acts, Provisions, and Ordinances, in such Form and Tenor as they should be sent into *England*, or else for the Change and Alteration of them, or any Part of the same. And that as well after every Authority or Lycence sent into this Kingdom for holding a Parliament, as also at all Times after the Summons, and during the Time of every Parliament to be thereafter holden within this Realm, the Lieutenant, Lord Deputy, Lord Justice, Lords Justices, or other Chief Governor, and Council of this Kingdom for the Time being, should and might certify all such other Considerations, Causes, Tenors, Provisions, and Ordinances, as they should further think good to be enacted and established at and in the said Parliament, to the King and Queen's Majesties, her Heirs and Successors, under the Great Seal of this Realm of *Ireland*; and such Considerations, Causes, Tenors, Provisions and Ordinances, or any of them, as should be thereupon certified, and returned into this Realm under the Great Seal of *England*, and no others, should and might pass and be enacted here, in every such Parli-
B 2
ment

ment within this said Realm of *Ireland*, in Case the same Considerations, Causes, Tenors, Provisions, and Ordinances, or any of them, should be agreed or resolved on by the three Estates of the said Parliament.

And whereas in this present Session of Parliament, the Lords Spiritual and Temporal being assembled, did the 24th of July now last past, appoint and select a Committee of Eighteen Lords, for Grievances, and for taking into Consideration of such Acts as are fit to be propounded to be past, and such Statutes as are in Force which are fit to be repealed ; which Committee met accordingly, and gave Order unto his Majesty's learned Council, for drawing of several Acts to be passed, *viz.* on the 26th Day of July last, for restraining the barbarous Customs of plowing by the Tail, of pulling Wool of living Sheep, of burning Corn in the Straw, of Barquing of standing Trees, of cutting Trees by Stealth, of forcing Cows to give Milk, and of building Houses without Chimneys. And likewise on the 30th Day of the same Month, the said Committee gave further Order to his Majesty's learned Council, to draw Acts for and touching the Limitation of his Majesty's Title not to extend above Threescore Years, according to the Effect of a Statute of 21.

Jacobi

Jacobi Regis, made in *England*, and in Pursuit of his Majesty's Pleasure, signified by his Highness's Instructions brought over by the Agents of this Kingdom in *Anno Domini* 1628; and for restraining the stealing of great Hawks with Nets, and letting Hawks foreayre once in Seven Years throughout the Kingdom, and for preserving of Game. And lastly, on the first Day of this instant Month, another Committee of the Lords, appointed for Priviledges, gave like Order to his Majesty's Attorney-General, with Advice of some of the Judges, to draw an Act for making such Noblemen as are resident in *England*, lyable to all publick Charges and Payments taxed by Parliament in this Kingdom, whence their Titles of Honour are derived, with Limitation, that every Earl, deriving his Honour from this Kingdom, should, within two Years next after this present Parliament, purchase in this Kingdom Lands to the Value of Three Hundred Pounds per Annum; every Viscount, Lands to the Value of Two Hundred and Fifty Pounds per Annum; and every Baron, Lands to the Value of Two Hundred Pounds per Annum; or otherwise their Honours derived from this Kingdom to be void.

And whereas also the said Committee of Priviledges directed the Lord Chancellor

cellor to move us the Lord Deputy, that divers Acts, drawn up by his Majesty's Judges of the several Courts, and considered of and allowed by their Lordships, might be further proceeded in as appertaineth, which the Lord Chancellor did accordingly. All which former Proceedings of their Lordships We the Lord Deputy taking into due Consideration, and weighing the same with the said Statutes, although we do not conceive that the said Lords advisedly or purposely intended to violate or inovate in any Thing otherwise than by the Statutes are provided, yet for avoiding any Misinterpretation which, by Reason of that Manner of proceeding, may in after Times be made to the Intrenchment on the said Acts of Parliament, or his Majesty's Royal Power, whereof we are and will be always most tender, in Discharge of the Duty we owe to the Preservation of his Majesty's Honour; and that the like Mistake in their Lordships' Proceedings may futurely be avoided:

We have therefore thought fit this Day, in full Parliament, to protest against that Course held by their Lordships, as not any Ways belonging to their Lordships to give Order to the King's learned Council or any other, for the framing or drawing up any Acts to pass in Parliament,

ment, but that the same solely belongs to us the Lord Deputy and Council.

We the Lord Deputy do hereby further declare, that their Lordships have Power only by Remonstrance or Petition, to represent to the Lord Deputy and Council for the Time being, such public Considerations as they shall think fit and good for the Common-Wealth, and so submit them to be drawn into Acts and transmitted into *England*, or otherwise altered or rejected, according as the Lord Deputy and Council in their Wisdoms shall judge and hold expedient, and that in such wise as the said Acts of Parliament in these Cases have limited and appointed.

And we the said Lord Deputy do trust their Lordships will take this as a seasonable and necessary Admonishment from us, and forbear the like Course hereafter.

By the Lord Deputy's Commandment,
Thomas Edmonds.

22^o *Februarii*, 1640.

[The Protestation and Declaration of the Lords Spiritual and Temporal in this Parliament assembled, touching Part of the Preamble of the Act of four Subsidies granted to his Majesty in this present Parliament.]

Whereas an Act for the granting of four intire Subsidies to his most Excellent

lent Majesty, was enacted in the first Session of this present Parliament, (in the Preamble of which Act, the ensuing Branch or Clause was inserted, viz. "And particularly in providing and placing over us so just, wise, vigilant, and profitable a Governour as the Right Honourable Sir *Thomas Wentworth*, Knight, Earl of *Strafford*, Lord Lieutenant of this your said Kingdom of *Ireland*, President of your Majesty's Council established in the North Parts of your said Kingdom of *England*, &c. one of your Majesty's most Honourable Privy Council of the same Kingdom, who, by his great Care and Travaile of Body and Mind, sincere and upright Administration of Justice without Partiality, Increase of your Majesty's Revenue without the least Hurt or Grievance to any of your well-disposed and loving Subjects, and our great Comforts and Security by the large and ample Benefits which we have received, and hope to receive, by your Majesty's Commission of Grace for Remedy of defective Titles, procured hither by his Lordship from your Sacred Majesty; his Lordship's great Care and Pains in Restauration of the Church; the Reinforcement of your Army within this Kingdom; and ordering the same with such singular and good Discipline, as that it is now become a great Comfort, Stay, and Security to
this

this your whole Kingdom, which before had an Army rather in Name than in Substance ; his Support of your Majesty's wholesome Laws here established ; his Encouragement and Countenance to your Judges, and other good Officers, Ministers, and Dispencers of your Laws in the due and sincere Administration of Justice ; his necessary and just Strictness for the Execution thereof ; his due Punishment of the Contemners of the same, and his Care to relieve and redress the Poor and Oppressed. For this your tender Care over us, shewed by the deputing and supporting of so good a Governour, We your faithfull Subjects acknowledge ourselves more bound than We can with Tongue or Pen express ;)

The Lords Spiritual and Temporal in this present Parliament assembled, do hereby declare and protest, that the said *Thomas, Earl of Strafford*, Lord Lieutenant General, and Governour General, of this Kingdom, before such Time as the said Act, being formerly transmitted into *England*, and returned from thence, was read, or known in Parliament, in a Speech declared, and signified to both Houses of Parliament, his Majesty's urgent and great Occasions, and the near and approaching Danger that this Realm was in, being suddainly to be invaded by the Scots ; whereupon four intire

bus

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Subsidies

Subsidies were freely, chearfully, and unanimously granted in Parliament; and thereupon, and not before the said Act, was read and made known in the House of the Lords. And that their natural and fervent Zeal and Devotion to his Majesty's Service, and the Fears of the said declared imminent Danger, and the Inconveniences which they suspected might ensue, if they had then excepted against the said Part of the Preamble concerning the Earl of *Strafford*, and expected a new Transmission as a Statute of Force, here called *Poyning's Act*, in such Cases doth require, did occasion and inforce their Silence, and not then speaking or protesting against the said Part of the Preamble, which was cautiously and surreptitiously as to this House, for so much thereof as concerns the said Earl of *Strafford*, only inserted in the said Preamble, and of Purpose to prevent and anticipate the just and universal Complaints of his Majesty's most faithfull, dutiful, and loving Brothers and Subjects of this Kingdom; and that the said Part of the Preamble was contrived, pen'd, and inserted as aforesaid, fraudulently without the Privy of the House, either by the said Earl of *Strafford* himself, or by some other Person or Persons, Advisers and Procurers of and in the manifold and general Grievances

and

and Oppressions of this his Majesty's Kingdom, by the Direction and Privy of the said Earl. And the said Lords Spiritual and Temporal assembled as aforesaid, do further declare and make this their Protestation, that this Kingdom, at such Time as the said Earl of *Strafford* first obtained the Government thereof, was in a flourishing, wealthy, and happy Estate; and that since the said Earl of *Strafford's* Government, he, the said Earl of *Strafford*, his Advisers, Councillors, and Ministers, have altered the Face of the Government of the said Kingdom, by the introducing of a new, unlawful, arbitrary, and tyrannical Government; by the Determination of all or most Causes upon Paper, Petitions, and other unjust and unwarrantable Proceedings and Actions, to the particular Profit of himself and his Ministers, tending to the great Impoverishment and Destruction of his Majesty's Subjects in their Lands, Goods, Lives, and just Liberties, and to the Subversion of the former laudable, mild, and legal Government, for many Ages past settled and established in this Kingdom by his most Excellent Majesty, and his Royal Progenitors and Predecessors, Kings and Queens of *England and Ireland*: And that the said Earl of *Strafford*, and his Councillors, Advisers, and Ministers,

aforesaid, by and by Occasion of the
 said Innovations and new Form of un-
 just Government, have, beyond all Mea-
 sure and Moderation, advanced and
 enriched themselves by Extortion, Op-
 pression, all Sorts of Injustice, to the ge-
 neral Grief, Discontent, and Distraction
 of his Majesty's said faithful People
 of this Kingdom. And the said Lords
 Spiritual and Temporal do further de-
 clare and protest, and have a settled,
 firm, and irremovable Faith and Belief,
 that his most Excellent Majesty, in his
 pious Intention and Inclination to his
 said People, did place, constitute, and
 continue, the said Earl of *Strafford* in
 the said Government, to the Intent and
 Purpose that the said Earl should carry
 and demean himself, a just, upright, and
 equal Governour of the said Kingdom,
 according to the Laws and Statutes of
 Force in this Kingdom, and in no other
 Sort or Manner. And that the said Earl
 of *Strafford*, his Councillors, Advisers,
 and Ministers aforesaid, did manage the
 most weighty Affairs of this Kingdom,
 during the Time the said Earl his said
 Government, directly contrary to his
 Majesty's said pious Intention. And the
 said Lords Spiritual and Temporal do
 further protest and declare, that as for
 and concerning so much of the Preamble
 of the said Act as doth concern his most
 Excellent

Excellent Majesty alone, and likewise the Body of the said Act, for the granting of the said Subsidies, that they are now as glad and chearful for to have passed and granted the same, as in or by the said Act, or in or by their former Declaration, they have expressed, and will, unto all honourable and necessary Occasions of his Majesty in Parliament, contribute their best Endeavours and Assistance.

And the said Lords Spiritual and Temporal do hereby authorize and require their Committee, now attending his Majesty, for to present unto his Majesty this their Protestation, and Proofs thereof by particular Instances, if the same be required and necessary; and likewise to present unto his Majesty their humble Request, that an Act may pass in this present Parliament, for the revoking, vacating, and taking from the Records of Parliament, the before-recited Part of the Preamble, concerning the said Earl of *Strafford* and his Government; and likewise to become most humble Suitors to his Most Excellent Majesty, that neither the said Earl of *Strafford*, nor any of his said Advisers, Councillors, or Ministers, as Persons who in all Things served their own Turns, and deceived his Majesty, and who are most hateful and insupportable to his said People, may have any
 Thing

Thing to do in councelling, advising, or acting, with or concerning the Government of this Kingdom, or the Affairs thereof; and that the Contrivers and Advisers of the said Part of the Preamble, concerning the said Earl of *Strafford* and his Government, the same being surreptitiously as to this House inserted as aforesaid, may be discovered, impeached, and punished for the same, and other their Offences and Misdemeanors, according to the Justice and Course of Parliament.

Thursday, 3d November, 1692.

His Excellency makes a Speech, wherein he declares a Dislike to some Proceedings of the House of Commons, against which he makes Protestation in Writing, as an Assertion of their Majesties' Prerogative, and then delivers the said Protestation to the Lord Chancellor, who, making a Sign to the Clerk to come to him, gave the same to be read, which was accordingly done at the Clerk's Table; *in hæc verba:*

SYDNEY,

Whereas at a Parliament holden at *Drogheda*, in the Tenth Year of the Reign of King *Henry* the Seventh, an Act was made, for and concerning the Order, Manner, and Form, of Parliaments to be holden and kept in this Realm of *Ireland*; and

and by another Act, made at a Parliament holden at *Dublin*, in the Third and Fourth Year of King *Philip* and Queen *Mary*, it was ordained, enacted, and established, that no Parliament should be summoned or holden within this Realm of *Ireland*, until such Time as the Lieutenant, Lord Deputy, Lord Justice or Lords Justices, Chief Governor or Governors, or any of them, and the Council of this Realm for the Time being, should have certified the King and Queen's Majesties, their Heirs and Successors, under the Great Seal of this Realm of *Ireland*, the Considerations, Causes, and Articles of such Act, Provisions, and Ordinances as by them should be thought meet and necessary to be enacted and passed here by Parliament, and should have received again their Majesties' Answer, under the Great Seal of *England*, declaring their Pleasures, either for passing the said Act, Provisions, and Ordinances, in the Form and Tenor as they should be sent into *England*, or else for the Change and Alteration of them, or any Part of the same; and that as well after any Authority of Lycence sent into this Kingdom, for holding a Parliament, as also at all Times after the Summons and during the Time of any Parliament, to be hereafter holden within this Realm, the Lieutenant, Lord Deputy,

puty, Lord Justice and Lords Justices, or other Chief Governor, and Council of this Kingdom for the Time being, should and might certify all such other Considerations, Causes, Tenors, Provisions, and Ordinances, as they should further think good to be enacted and established at and in the said Parliament to the King, and Queen's Majesty, their Heirs and Successors, under the Great Seal of this Realm of *Ireland*; and such Considerations, Causes, Tenors, Provisions, and Ordinances, or any of them, as should be thereupon certified and returned into this Realm, under the Great Seal of *England*, and no other, should and might pass and be enacted here, in any such Parliament within this said Realm of *Ireland*, in Case the same Considerations, Causes, Tenors, Provisions, and Ordinances, or any of them should be agreed or resolved on by the then Estates of the said Parliament.

And whereas in this present Session of Parliament, a Bill, intituled, An Act for granting unto their Majesties an additional Duty on Beer, Ale, and other Liquors, which had been certified by us the Lord Lieutenant of this Kingdom, and the Council, unto the King and Queen's Majesty, under the Great Seal of this Kingdom, and by their Majesties approved of and returned under the
Great

Great Seal of *England*, and by us sent to the House of Commons, to be considered of in this present Parliament: The said Commons, having the said Bill lying upon their Table, on the 27th Day of the Month of *October* last, did come to a Vote thereupon, and resolved, That it is the sole and undoubted Right of the said Commons, to prepare Heads of Bills for raising Money. And further, on the 28th Day of the same *October*, a Motion being made in the said House, and the Question put, that a Bill then on the Table, which had likewise been regularly transmitted in the same Form, intituled, An Act for granting to their Majesties certain Duties for one Year, might be read, it passed in the Negative; and the said House of Commons resolved, That the said Bill be rejected by that House; and further resolved, That it be entered in the Journals of that House, that the reason why the said Bill was rejected, is, that the same had not its Rise in that House. All which Resolutions and Proceedings appear in the Journals of the House of Commons, printed by their Order and Authority; by which Votes and Resolutions the said House of Commons do exclude their Majesties, and the Crown of *England*, from the Right of transmitting any Bills, for granting of Money or other Aids to their Majesties

D

and

and their Successors: Which recited Votes, Resolutions, and Proceedings of the House of Commons being contrary to the said recited Acts of Parliament, and the continued Usage and Practice ever since the making thereof, and a great Invasion upon their Majesties' Prerogative, and the Rights of the Crown of *England*;

We the Lord Lieutenant, as well to assert the Rights of their Majesties, and the Rights of the Crown of *England*, (whereof we are and ever will be most tender) in transmitting such Bills under the Great Seal of *England*, to be considered of in Parliament, as to discharge the Trust reposed in us, and prevent the Inconveniencies which may hereafter happen, in Case these Votes and Resolutions of the House of Commons should be made in public, or remain in their Journals without any Contradiction or Animadversion, have thought it necessary, this Day in full Parliament, to protest, and we do accordingly protest, against the aforesaid Vote and Resolutions, made by the House of Commons, and entered in their Journals; and do assert, protest, and declare, that it is their Majesties' Prerogative, and the undoubted Right of the Crown of *England*, observing the Forms in the said several Acts prescribed, to transmit Bills, under the
Great

Great Seal of *England*, for granting of Aids to their Majesties, their Heirs and Successors; which said Bill, so transmitted, ought to be read and considered of by the House of Commons in this Kingdom: And therefore the said recited Votes and Proceedings of the House of Commons, are contrary to the Acts of Parliament above-mentioned, and the constant Practice and Usage in all Parliaments since the making thereof, and also highly derogatory to their Majesties' Royal Authority, and the Rights of the Crown of *England*.

By his Excellency's special Command,

C. Wick.

Thursday, 23d Sept. 1697.

Resolved, on the Question, That the ingrossed Bill sent up by the Commons, intituled, An Act for the Confirmation of Articles made at the Surrender of the City of *Limerick*, do pass into a Law.

Ordered, on Motion, that such Lords as please may enter their Protest to the foregoing Vote, with their Reasons.

We the Lords Spiritual and Temporal, whose Names are hereafter subscribed, do dissent from the aforesaid Vote, and enter our Protest against the same, for the Reasons following:

1st, Because we think the Title of the Bill does not agree with the Body there-

of; the Title being, An Act for the Confirmation of Articles made at the Surrender of the City of *Limerick*, whereas not one of the said Articles is therein, as we conceive, fully confirmed.

2dly, Because the said Articles were to be confirmed in Favour of them to whom they were granted; but the Confirmation of them by the Bill is such, that it puts them in a worse Condition than they were before, as we conceive.

3dly, Because this Bill omits these material Words, [And all such as are under their Protection in the said Counties] which are, by his Majesty's Letters Patents, declared to be Part of the second Article; and several Persons have been adjudged within the said second Article accordingly, who will, if this Bill passeth into a Law, be entirely barred and excluded from any Benefit of the said second Article, by Virtue of the aforementioned Words. So that, the Words omitted being so very material, and confirmed by his Majesty, after a solemn Debate in Council, as we are informed; some express Reasons, as we conceive, ought to have been assigned in the Bill, in order to satisfy the World as to that Omission.

4thly, Because several Words are inserted in the Bill, which are not in the Articles, and others omitted; which alter
both

both the Sense and Meaning of some Parts of the Articles, as we conceive.

5thly, Because we apprehend that many Protestants may and will suffer by this Bill, in their just Rights and Pretensions, by Reason of their having purchased and lent Money upon the Credit of the said Articles; and, as we conceive, in several other Respects,

<i>Londonderry,</i>	<i>John Offory,</i>
<i>Tyrone,</i>	<i>Tho. Limerick,</i>
<i>Dungannon,</i>	<i>Tho. Killalowe,</i>
<i>S. Elphin,</i>	<i>Kerry,</i>
<i>Will. Derry,</i>	<i>Howth,</i>
<i>Will. Clonsfert,</i>	<i>Kinstown,</i>
<i>W. Killalla,</i>	<i>Strabane.</i>

Saturday, 27th November, 1697.

The Question being put, whether the ingrossed Bill sent up by the Commons, intituled, An Act for the better Security of his Majesty's Royal Person and Government, shall pass into a Law?

It passed in the Negative.

Ordered, on Motion, that such Lords as please may enter their Protest to the foregoing Vote, with their Reasons; Leave being asked and given for any Lord to enter his Dissent, if the Question should be carried in the Negative.

We, whose Names are hereunder written, do dissent, for the Reasons following:

1st, Because it doth evidently appear, that the Papists of this Kingdom have ever been, and at this Time are, Enemies to the *English* Protestant Interest of this Kingdom.

2^{dly}, Because it is notorious, that his Majesty rescued our Lives and Liberties out of the Hands of our Enemies, the Papists of this Kingdom, and restored to us the Exercise of our Religion, by his great Valour and Conduct, and at the frequent and extreme Hazard of his Sacred Person.

3^{dly}, Because this Bill doth well correspond with the Title, and seems aptly and properly framed to preserve his Majesty's Person and Government, whereon, under God, the Welfare of all the Protestants in all his Majesty's Dominions doth entirely depend.

4^{thly}, Because this Bill doth declare the Associations already entered into, for the Preservation of his Majesty's Person and Government, to be and remain good and lawful, and doth enjoin and require all that are in Office or Employment, and other Persons therein specified, to join and associate themselves together, for the better Preservation thereof; which we conceive to be absolutely necessary, for the Good of the Protestant Religion and the *English* Interest, and the rather since the House of
Peers

Peers have not yet associated, although the House of Commons and many others have done the same.

5thly, Because this Bill enjoins every Person, elected to serve as a Member of the House of Commons, to sign the Association already entered into by that House, before he sit or vote therein.

6thly, Because it disables every Person to vote at Elections of Parliament, that shall refuse to take the Oaths in the said Act mentioned; which we conceive would be a great Security to the Government, by incapacitating Papists, and other disaffected Persons, from sitting in Parliament.

7thly, Because this Bill provides for the continuing of all Officers, civil and military, in their Employments, six Months after the Death of his Majesty, or any of his Heirs or Successors, unless such Successors should, within that Time, notify his Pleasure to the contrary; which Provision tends to preserve the public Peace of this Kingdom, and keep inviolable the Union and Dependence of this Kingdom on the Crown and Kingdom of *England*.

8thly, Because, in our Opinion, there is nothing in the said Bill inconsistent with Justice or Equity; the like Laws having been enacted both in *England* and in this Kingdom, for the necessary Defence

fence of our Religion and Safety, and to distinguish Protestants from Papists by Oaths and Declarations prescribed by such Laws, and changed by subsequent Acts, as Occasion required: And the Penalties, in this Bill contained, can never be inflicted but by the joint Concurrence of the Majority of the Justices of the Peace, at their Quarter Sessions, who must certify every Conviction to the Judges of Assize, that the same may be Estreated into the Exchequer, from whence Process may issue; so as there seems no Danger of the Prosecution being hasty and severe, there being no Obligation to put the said Act in Execution, but a discretionary Power is left both in the Justices of the Peace, Barons of the Exchequer, and Government.

9thly, Because the Bill lodges in his Majesty full Power to pardon and discharge all Offences, Forfeitures, and Disabilities incurred by the said Bill, under his Royal Signet, or Sign Manual; so as his Majesty's Clemency, and the Prudence and Moderation of the Justices of the Peace, Courts of Justice, and the Government, may very well be entrusted with the Power of putting in Execution a Law so necessary for our Safety.

10thly, Because the rejecting this Bill may seem to discourage the Execution of those penal Laws, which are already enacted,

enacted, against the Papists of this Kingdom, who from hence may take Occasion of condemning, as unjust and severe, the Laws formerly made against them.

Lastly, Because we think it our Duty, by entering our Dissent to the Rejecting of this Bill, to acquit ourselves, before God and Man, from being charged by our Posterity, as Authors of the Miseries which we fear may be the Consequence of the Loss of this Bill.

<i>Narcissus Dublin,</i>	<i>Mount Alexander,</i>
<i>W. Cashell,</i>	<i>Loftus,</i>
<i>Jo. Tuam,</i>	<i>Massereen,</i>
<i>Meath,</i>	<i>Powercourt,</i>
<i>Inchiquin,</i>	<i>Blessinton,</i>
<i>Orrery,</i>	<i>Mountjoy,</i>
<i>Montrath,</i>	<i>Blayney.</i>

Tuesday, 30th November, 1697.

Resolved, on the Question, *nemine contradicente*, that the ingrossed Bill sent up by the Commons, intituled, An Act for granting a Supply to his Majesty, by raising Money by way of a Poll, do pass.

Ordered, on Motion, that the Protest against the Commons taxing the Lords, be entered in the Journals of this House, which follow, *in hæc verba*:

Whereas the Commons of this Kingdom, in this present Parliament assembled, have given and granted several Aids to his Majesty, towards the supply-

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ing

ing the Defects of the Revenue, and, amongst other Things, have raised Money by a Poll, &c. wherein the Commons have assumed to themselves a Power to assess the Peers of this Kingdom; which being (as their Lordships conceive) a Tax upon their Titles of Honour, their Lordships do declare, that they have an undoubted Right to assess themselves.

But forasmuch as his Majesty's Affairs at this Juncture require an immediate Compliance herein, their Lordships (in Consideration of the great and many Benefits which they daily reap under his Majesty's most happy and auspicious Government) do with all Chearfulness and Alacrity concur, *pro hac vice*, with this solemn Protest, that when the like shall be again attempted, their Lordships will assert their Right, that their Privileges may not be invaded.

Die Jovis, 24^o die Decembris, 1713.

The Lord Viscount Strabane, standing at the Clerk's Table, reports, from the Committee appointed to inspect the Papers relating to *Edward Loyde*, the Lord Chancellor's Speech, and such other Papers as should be laid before them relating thereto, That they had agreed to a Representation; which was read.

Ordered,

Ordered, on Motion, that the said Representation be read, Paragraph by Paragraph.

The Question being put, whether, in this Part of the Representation, Notice shall be taken of a Petition preferred by the said *Loyde* to the Lords Justices and Council, notwithstanding it does not appear in the Council-Books, that any Order was at that Time conceived upon it?

It passed in the Negative.

We dissent from the above Vote, and protest against it, because it appears, by an Order entered in the Council-Books, dated the 21st of *March*, 1712, that the said Petition was referred to the Attorney and Solicitor General.

<i>Will. Dublin,</i>	<i>Fitzwilliam,</i>
<i>Kildare,</i>	<i>Mountjoy,</i>
<i>Mountrath,</i>	<i>St. Geo. Clogher.</i>
<i>Loftus,</i>	

The Question being put, whether in the Representation an Amendment should be made, in the Words following, (with a Petition annexed) said by said *Loyde* to have been formerly presented to the Lords Justices and Council; which Petition is a false and scandalous Libel, and tends to divide the Protestants of *Ireland*?

It passed in the Negative.

We dissent from the above Vote, and protest against it.

*Will. Dublin,**Fitzwilliam,**Kildare,**Mountjoy,**Mountrath,**St. Geo. Clogher,**Loftus,*

The Question being put, whether Enquiry shall now be made, whether the Lords Justices and Council had good Foundation to represent *Edward Loyde* to be an Object of Mercy?

It passed in the Negative.

We dissent from the said Vote, and protest against it.

*Will. Dublin,**Fitzwilliam,**Kildare,**Mountjoy,**Mountrath,**St. Geo. Clogher.**Loftus,*

Ordered, on Motion, that the said Representation, with some Amendments, be the Representation of this House.

We dissent from the above Vote, and protest against it.

1st, Because, as we humbly conceive, several Particulars are omitted in representing the Affair of Mr. *Loyde*, that might have set it in a clearer Light, and made it more evident whether he was an Object of her Majesty's Compassion and Mercy.

As first, that the said *Loyde*, by his own Confession, was concerned in the Assassination Plot against King *William*.

Secondly,

Secondly, That his News-Letters seem generally favourable to the Interest of the Pretender.

2dly, We protest against the said Vote, because the said *Loyde's* Petition to the Lords Justices and Council, which is annexed to his Petition to his Grace the Duke of *Ormond*, and referred by the Lords Justices and Council to the Attorney and Solicitor General, is not taken Notice of in the Representation; which Petition we conceive to be false and scandalous:

First, Because in the said Petition he pretends to have had the Honour to write a News-Paper by Public Authority in this Kingdom, and now one in Opposition to the *Dublin* Intelligence, &c. which Allegation we conceive to be false, and tending to prejudice the Minds of the People against the Government, as answerable for the ill Things published in his News-Papers.

Thirdly, In the said Petition he pretends that his Zeal has drawn on him the Hatred of a powerful Faction, that fly in the Face of Majesty and Government; thereby insinuating, that only such as are Enemies to Majesty and Government express'd a Dislike to his Practices and News-Papers; which, as we conceive, is to charge the Generality of the Protestants of *Ireland* with flying in the Face of Majesty

Majesty and Government. And we humbly conceive no Petition or Petitioner ought to be countenanced, that dare advance so false and seditious an Infination.

Fourthly, Because he pretends it as a Merit, that he laid a treasonable Paper, found in his House, before the Government, for which he has been insulted in an unusual Manner; which we humbly conceive is to criminate others, but not to clear himself, he still lying under the Suspicion of having framed that Paper called Honest Resolves, no Copy of it being found any where else that we know of, nor any other Author discovered, though 500l. was by Proclamation promised as a Reward to the Discoverer.

Fifthly, Because he doth not acknowledge, or beg Pardon for, his designing to publish, and take Subscriptions in order to publish, the Book mentioned in his Advertisement, though it be seditious and treasonable; the very having of which, with a Design to sell, disperse, or publish it, we conceive to be a great Crime, and tending to disturb the Minds and Peace of her Majesty's Subjects.— For all which Reasons, we humbly conceive the said Petition ought to have been rejected by the Lords Justices, and their

their not rejecting it taken Notice of in the Representation.

gdly, We protest against the said Vote, because, as we humbly conceive, the Report of the Attorney and Sollicitor General is not fully represented, no more being said of it, than that they reported, that the said *Loyde* being no farther criminal than by intending to print and publish the said Book, and being in very low Circumstances, he might be an Object of her Majesty's Mercy; whereas the Attorney and Sollicitor General report the Book the said *Loyde* designed to print to be seditious, and that the taking Subscriptions, reprinting and publishing thereof, is a high Misdemeanour, tending to the Disturbance of her Majesty's Peace; and that there was found with the said *Loyde* a Paper, importing a Paper of Subscriptions, and one Person's Name subscribed thereto; and that what the Petitioner prayed for, *viz.* that a Stop should be put to Proceedings against him, was Matter of meer Grace and Favour, and depending on their Excellency's and Lordship's Consideration of the Nature of the Offence, and Circumstances of the Petitioner, which, as they were informed, were very low.

Whence we take Leave to observe, that the Attorney and Sollicitor General do charge the said *Loyde* not only with
intending

intending to print the said Books, but with taking Subscriptions also in order to it, which we humbly conceive was publishing it; and that they do not say that he was an Object of her Majesty's Mercy, as it is represented, but only that they were informed his Circumstances were very low, which we humbly conceive might be a good Reason for the Court to be easy to him in his Fine, if found guilty, but no Reason why he should not be proceeded against, for an Example to such Offenders.

4^{thly}, We protest against the said Vote, because we were not allowed to enquire whether the Lords Justices and Council had good Foundation to represent *Edward Loyde* to be an Object of Mercy, nor had we any Satisfaction how it appeared that he had no evil Intention or Design, in proposing to print the Book for which he was indicted; the contrary being rather, as we conceive, to be presumed, from the Fact itself, and the Character of the Person, and the Report of the Attorney and Solicitor General; nor why he was represented not only as an Object of Mercy, but likewise thereby recommended to his Grace the Duke of *Ormond's* Favour.

5^{thly}, We protest against the said Vote, because, though we acknowledge, as in the Representation is set forth, that the
granting

granting *Noli prosequi*'s is an undoubted Prerogative of the Crown, yet we conceive the Ministers may advise her Majesty to grant some such, which may tend to the Disadvantage of the Crown, or the disquieting the Minds of her Subjects, and may be faulty in so doing; and we humbly conceive the granting one in this Case has had ill Effects.

6thly, We protest against the said Vote, because the Prosecution of the said *Loyde*, and the *Noli Prosequi* granted thereupon, are at this Time depending before the House of Commons, and that the Commons may, for all we know, bring it before this House, by way of Impeachment; in which Case the Resolutions of the Lords might be looked on as pre-judging the Cause.

7thly, Because the Representation, ordered by this Vote, was not read in the House after it was engrossed; which we conceive ought to have been done, before agreed to or presented.

8thly, We protest against this Vote, because it is said in the Representation, that the Lord Chancellor, in his Speech to the Lord Mayor and Aldermen, 16th Jan. 1712, gave no other Directions to them, than what he received from her Majesty, or was instructed to give them by the Privy Council; whereas no such Instructions appeared to us to be given

his Lordship, by her Majesty or by the Privy Council; and though such had been given him by the Privy Council, yet we humbly conceive they would not excuse him, if any Thing be amiss in his Speech, because, being one of the Lords Justices at that Time, he was no farther under the Direction of the Privy Council than he thought fit: And as to her Majesty's Directions, if he had any such, we humbly conceive that they were founded on his own Representation of the Case, and therefore that he was answerable for any Thing amiss in them or his Speech.

9thly, Because, as we conceive, the Lord Chancellor being then one of the Lords Justices, took upon him to pre-judge a Cause then depending in her Majesty's Court of Queen's Bench, by declaring what passed in the Play-House, on his late Majesty's Birth-Day, to be a great Riot, the Issue then to be tried in Court being, as we conceive, whether it was a Riot or no; and the Speech, as we think, tended to influence the very Persons to find it so, that commonly are on Juries in such Cases, and we know not what Effect a Chief Governor and Chancellor's Opinion, declared in so solemn a Manner, might have on them.

10thly, Because it is put in the Speech, as an Aggravation, that the Prologue spoken

spoken in the Play-House had been forbid by the Government two Years successively; whereas we know of no such Prohibition, nor do we conceive that the Subjects are generally obliged to take Notice of any Prohibition as from the Government, or be construed to act in Defiance of Authority, where the said Prohibition is not made public by Proclamation or Declaration, and we know of none issued in this Case.

11^{thly}, Because his Lordship intimates, that the said Prologue invites her Majesty's Subjects to take up Arms, to drive the King of *Spain* out of those Dominions, which her Majesty, by her Articles of Peace, has stipulated he should enjoy; whereas we know of no Articles of Peace, stipulating that the King of *Spain* should enjoy his Kingdoms, the 4th of *November*, 1712, upon which Day the said Prologue was spoke; nor, as we humbly conceive, doth the said Prologue any Ways impeach her Majesty's undoubted Power of making Peace or War, as is suggested in his Lordship's Speech.

12^{thly}, Because the said Speech insinuates, as seems to us, that her Majesty's Subjects are disaffected to her Government, and return such Juries, that, either for Want of Understanding, or a due Sense of the Obligation of their Oaths,

or Want of Integrity and Loyalty, refuse her Majesty at least equal Justice; which we humbly conceive tends to give her Majesty an ill Impression of her Subjects: And we cannot but remember to what ill Purposes the like Pretences were used, before the Revolution of the Year 1688, and that one great Reason given for *Quo Warranto's* and dissolving Corporations was, that the Crown might have Sheriffs, that would do impartial Justice in returning Juries; and though we owe it to God and her Majesty's Goodness, that the Case is in no Respect alike, yet we conceive it may disturb some weak People, to hear the same Language used by a Chief Governor now, which was then so common.

<i>Will. Dublin,</i>	<i>Fitzwilliam,</i>
<i>Kildare,</i>	<i>Mountjoy,</i>
<i>Mountrath,</i>	<i>St. Geo. Clogher,</i>
<i>Loftus,</i>	

Die Lunæ, 5^o die Decembris, 1715.

The Lord Primate, from the Lords Committees appointed to inform the House what is necessary and requisite to be done for the Service of this House, reported, that they had come to several Resolutions.

And a Debate arising upon the second Resolution, it was proposed, that the
Consideration

Consideration thereof should be adjourned to a further Day.

Then the Question was put, whether the Consideration should be adjourned to *Friday Morning* next?

It passed in the Negative.

Dissentient

We the Lords undernamed do enter our Protest against the Question having been put in this House as above, on Part of the Report from the Committee appointed to inform the House what is necessary and requisite to be done in and for the Service of this House, as not remembering the like to have been ever done before, on any Occasion, except as to Paragraphs of Addresses or Representations, but humbly conceiving that the whole Report ought regularly to have been recommitted, in Case the Majority had, beyond verbal Amendments, pointed out any part thereof which they did not approve of: For we are apprehensive that Inconveniencies may, in Process of Time, arise from this Alteration in the parliamentary Method of Proceedings, which hath been, in our humble Opinion, wisely settled by our Ancestors for many Ages past, and hath not hitherto been found subject to any Inconveniencies.

*Charlemont,
Strabane,*

*Doneraile,
Altham.*

Die

Die Mercurii, 7^o die Decembris, 1715.

Resolved, That it is the Opinion of this Committee, that *William Hawkins, Esq;* King at Arms of all *Ireland*, appears to this Committee to be a necessary Attendant of the House of Lords, and thereby intitled to the Protection of the said House, during his Attendance.

The Question was put, whether the House did agree with their Committee in this Resolution?

It was resolved in the Affirmative.

We, whose Names are under-written, dissent from this Resolution, because the Words [during his Attendance] are so uncertain, that no Person, who has any Law-Suit with the King at Arms, can tell whether the Lords mean, that the King at Arms is intitled to the Protection of this House on those Days only when he assists in the Introduction of a new Peer, (which is the only Time he ever attends in this House, unless when he attends in his Post of King at Arms, when the Government come to Parliament) or whether their Lordships mean he has Protection during the Session of Parliament, with the Forty Days before and Forty Days after each Session of Parliament.

Tho. Armagh,
Bellamont,

Valentia,
Altham,

Charlemont,

Charlemont, E. Down & Connor,
 T. Waterford & Lismore, Tho. Offory,
 Athunree, Kerry.
 Mayo,

Die Veneris, 16^a die Decembris, 1715.

I *James* Lord Viscount *Strabane* do hereby take the Liberty of conveying down to Posterity my Dissent from the Question, That the Outlawry, for the Rebellion in 1641, of the Ancestor of the Lord Viscount *Mount Garret*, under whom he derives his Honour, is reversed.

As being humbly of Opinion, that the former Judgment of this House thereupon might have been safely relied on; it having been grounded on the Reports made by Lords Committees, in two Sessions of Parliament, who had Power to send for Persons, Papers, and Records, as the late Committee likewise had; but it having been made appear, upon Oath, that during the dismal Time preceding the late happy Revolution in this Kingdom, the Records were hid in several different Places; that the late Trustees had as often Recourse as they pleased to the said Records, which were often brought to them, and kept by them sometimes a Week, at other Times a Fortnight, and even longer, as they thought fit, and that without giving Mr. *Wybrants*, the then Keeper thereof, any Receipts

Receipts for the same; and it also being owned by Mr. *Caldwell*, in whose Custody the Records now are, that the Record relating to the Reversal of Lord *Mount Garret's* Outlawry might be mislaid, the old Records not being all in their proper Places, but lying in Confusion, and some of them not long ago in the Clerks Room, who consequently had them in their Power, until he lately removed the same to a safer Place.

All these Circumstances considered, though I do with due Deference submit to the Result of Yesterday's Proceedings in this House, when the said Question was carried, it may nevertheless, in my humble Opinion, be reasonably presumed, that the former Lords Committees, whose Reports were confirmed by the House, had sufficient Proof laid before them to ground the following Resolutions upon, though what the said Proofs were do not appear upon the Journals, which did not then contain such Particulars as have very properly been begun to be inserted therein only during this present Session.

On the 23d of *November*, 1697, there were Lords Committees appointed, to inspect the Journals and other Books and Papers belonging to this House, and inform themselves which of the Lords of this Kingdom stand outlawed, and report the

the same to this House; and this Committee had Power to send for Persons, Papers, and Records, in order to their proceeding thereon.

That on the 2d of *December*, 1697, the Lord Viscount *Maffereene* reported from the said Committee, that they found that in the Year 1641 several Lords therein mentioned were all outlawed. They also found that several Lords likewise named in that Report were outlawed, but had since reversed their Outlawries in this Kingdom; at the Top of which List of Lords there is *Richard* Lord Viscount *Mount Garret*.

That on the 10th of *October*, 1698, it was ordered, that the Committee of Privileges should inspect the Records, together with the Journals and other Books and Papers belonging to this House, and inform themselves which of the Lords of this Kingdom stand outlawed, and report the same to this House; and had Power to send for Persons, Papers, and Records, in order to their proceeding thereon.

And on the 13th of the same Month, the said Committee was ordered to meet that Afternoon at Five o'Clock.

And on the 19th, the Lord Viscount *Maffereene* reported, from the Committee of Privileges, who were ordered to consider of the wording the Resolution made the 2d of *December*, 1697, in Rela-

tion to such Lords or their Ancestors who stood outlawed, had met, and were of Opinion, that Inconveniencies which were apprehended in the wording of the said Resolution, may be avoided by wording it thus, *viz.*

Resolved, That those Lords whose Ancestors stand outlawed, shall not sit in this House, nor their Names be continued in the Roll of this House, in the Right of such Ancestors.

Resolved, That such Lords as stand outlawed on Record shall not have Privilege to sit in this House, but ought to be struck out of the Roll of this House.

And it was then resolved, That this House do agree with the Committee in the two foregoing Resolutions, and ordered, that the Report made by the Lord Viscount *Maffereene*, on the 15th of this instant *October*, in Relation to such Lords who stand outlawed, be entered in the Journals of this House, as follows;

The Committee of Privileges, that were ordered to inspect the Records, together with the Journals and other Books and Papers belonging to this House, and inform themselves which of the Lords of this Kingdom stand outlawed, met, and on Search of Records find that

Christopher Earl of Fingall,

Nicholas Lord Visc. Gormanstowne, &c.
do now stand outlawed in this Kingdom.
Amongst

Amongst whom the Lord Viscount
Mount Garret is not named.

Strabane.

We the Lords undernamed do also
dissent from the said Question.

<i>Tho. Armagh,</i>	<i>Kerry,</i>
<i>Tho. Limerick,</i>	<i>Kingston,</i>
<i>Ed. Down & Connor</i>	<i>Altham,</i>
<i>Charles Cloyn,</i>	<i>Valentia,</i>
<i>T. Waterford & Lismore,</i>	<i>Bellomont,</i>
<i>Pet. Cork & Rasse,</i>	<i>Tho. Offory,</i>
<i>Barrymore,</i>	<i>Massereene,</i>
<i>Maya,</i>	<i>Charlemont,</i>
<i>Athunry,</i>	

Die Sabbati, 17^o die Octobris, 1719.

To the King's Most Excellent Majesty.

*The humble Representation of the Lords
Spiritual and Temporal, in Parliament
assembled.*

Most Gracious Sovereign,

It is with the greatest Concern that we
your Majesty's most dutiful and loyal
Subjects, the Lords Spiritual and Tem-
poral, in Parliament assembled, do find
ourselves under a Necessity of making
this our humble Representation to your
Majesty.

It evidently appears, by many antient
Records and sundry Acts of Parliament
passed in this Kingdom, and particularly
by one in the 11th of Queen *Elizabeth,*

intituled, An Act for Attainder of *Shane O'Neal*, &c. That the Kings, with all the Princes and Men of Value of the Land, did, of their own good Wills, and without any War or Chivalry, submit themselves to your Majesty's Royal Ancestor King *Henry* the Second, took the Oaths of Fidelity to him, and became his Liege Subjects; who (as it is asserted by the Lord Chief Justice *Coke** and others) did ordain and command, at the Instance of the *Irish*, that such Laws as he had in *England* should be of Force and observed in *Ireland*. By this Agreement the People of *Ireland* obtained the Benefit of the *English* Laws, and many Privileges, particularly that of having a distinct Parliament here as in *England*,† and of having weighty and momentous Matters, relating to this Kingdom, treated of, discussed, and determined in the said Parliament.

This Concession and Compact thus made, and afterwards by succeeding Kings confirmed to the People of this Land, † in Process of Time proved a great

* *Coke* 4th Inst. pag. 349. *Matt. Paris* ann. 1172, pag. 105.

† *Coke* 4th Inst. pag. 350.

‡ *Pryn* on 4th Inst. pag. 287. ann. 31 Ed. III. *Rex Justie & Canc' suis Hibern' salutem, &c. Item volumus et precipimus, quod nostra et ipsius terra negotia, præsertim majora & ardua in consiliis, per peritos Consiliarios nostros, ac Prælatos et Magnates, et quosdam de discretioribus et probioribus hominibus, de partibus vicinis,*

great Encouragement to many of the *English* to come over and settle themselves in *Ireland*, where they were to enjoy the same Laws and Liberties, and live under the like Constitution, as they had formerly done in the Kingdom of *England*; which, through God's good Providence, has proved a Means of securing this Kingdom to the Crown of *England*, and we trust will do so to all Futurity. By this happy Constitution, and these Privileges by us so many Years enjoyed, the *English* Subjects of this Kingdom have been enabled faithfully to discharge their Duty to the Crown of *England*, and vigorously set themselves, upon all Occasions, to assert the Rights thereof, against all the Rebellions which have been raised by the *Irish* Enemies. And therefore we your Majesty's loyal Subjects do, with all Submission to your Majesty, insist upon them, and hope, through your Majesty's Goodness, to have them preserved inviolable.

And we beg Leave to represent to your Majesty, that though the Imperial Crown of this Realm was formerly * inseparably annexed

vicinis, ubi ipsa consilia teneri contigerit; propter hoc evocandus in Parliamentis vero, per ipsos Consiliarios nostros, ac Prelatos et Praeres, aliosque de terra praedicta, pro ut mos exigit, secundum justitiam, legem, consuetudinem, et rationem tractentur, deducantur, et fideliter timore, favore, odio aut precio, post positis discussantur, et etiam terminentur.

* Ann. 2. Eliz. pag. 214. c. 5. c. 7. pag. 218.

annexed to the Imperial Crown of *England*, and is now to that of *Great Britain*, yet this Kingdom being of itself a distinct Dominion, and no Part of the Kingdom of *England*, * none can determine concerning the Affairs thereof, unless authorized thereto by the known Laws and Customs of this Kingdom, or by the express Consent of the King.

And as your Royal Ancestors have always enjoyed the Right and Power of determining all Matters, that related only to this Kingdom, by their Royal Authority in their Parliaments held here; so we humbly hope your Majesty will always look on this Right as a most valuable Jewel of your Crown, which none should presume to touch without your Majesty's Consent. And that your Majesty will graciously allow us to represent it as an Invasion of your Prerogative, and a Grievance to your loyal Subjects in this Kingdom, that any Court of Judicature should take upon them to declare, that your Majesty cannot determine all Controversies between your Subjects of this Kingdom, and about Matters relating wholly to the same, by your Royal Authority in your Parliament summoned to meet here; or that your Subjects of *Ireland*, appealing to

* Coke 4th Inst. pag. 349.

your Majesty in your Parliament in *Ireland*, in Matters wholly relating to this Kingdom, do bring their Cause before an incompetent Judicature.

We have, may it please your Sacred Majesty, endeavoured with our utmost Care, to enquire into the Grounds of all such Appeals, or Removals of Causes from this Kingdom, as have at any Time been made into *England*, and are persuaded that such Usages have been introduced by slow Degrees. At first, the Judges here being to determine the Causes that came before them, by the common Laws of *England*, and sometimes not knowing well the Usages there, applied to *Henry the Third*, their then King, for Information;* who gave them an Account what the common Law and Custom of *England* in like Cases was; and this undoubtedly by the Advice of the Justices of the King's Bench, who then were obliged to attend the King, where ever he should be. And in Process of Time,† when his Successors had settled the Court of King's Bench after another Manner, and had forborn to sit there themselves in Person, the Application which formerly used to be made to the King, who presided in that Court, came

* 14 *Hen. III. Stat. Hibern. made at Westminster.*

† 28 *Edw. I. c. 5.*

of Course to be brought before the Justices of the Court, although the King was not there personally present; And this, as we conceive, gave Rise to that Custom of removing Causes, by Writs of Error, from the King's Bench in *Ireland* to the King's Bench in *England*; but from hence to infer, that therefore Appeals from the Parliament of *Ireland* may be brought before the House of Peers in *England* or *Great Britain*, is a Consequence for which there appears to be no Manner of Ground. As for the Practice of appealing from the High Court of Chancery in *Ireland* to the Lords of *Great Britain*, we can find but two Precedents of such Appeals before the late happy Revolution; one in 1670, and the other in 1679! And we can account for them no otherwise, than by observing that they happened at a Juncture when no Opposition could be given them from this Kingdom, because, through the Prevalency of a Popish Interest, no Parliament had been held here for some Years before, nor were we then in any Likelyhood of having any called here for many Years to come; nor can we find that any like subsequent Appeals, from that Court, have any other Foundation than those two Precedents.

And such Appeals (though they had been of longer standing and better founded)

founded) yet were never supposed to preclude the King's Majesty from his Right of giving Redress to his Subjects of *Ireland*, in his Parliament when assembled here, any more than Writs of Error to the King's Bench in *England* had hindered the like Writs from being returnable in the Parliament here.

And accordingly, when, by God's Blessing, on the late happy Revolution, this Kingdom came to have a Parliament after Twenty-six Years Intermision, Complaints were heard, Writs of Error and Appeals were received, and proper Orders were made thereon, as formerly; nor were they, as far as we can find, ever questioned, or their Validity doubted, till the Year 1699, when two Appeals from the Parliament here were carried before the Lords in *England*, though no Pleadings to the Jurisdiction of the Parliament of *Ireland* had been offered or mentioned by either Party, on hearing the said Causes here.

And though the Parliament of *Ireland* could not then interpose, or any Ways assert their Jurisdiction, because it was not sitting, yet the Lords of *England* declared the said Causes to be *coram non judice*, and, without hearing the Merits of the Causes, reversed the Decrees that had been made here.

Upon which Occasion we cannot but observe, that the Parliament of *Ireland* (as the Constitution thereof has been for some Hundreds of Years) being convened by the same Authority and Writs of Summons, and consisting of like Members, and distinct Houses of Peers and Commons; and the former having the same Assistance and Attendance, from the Judges of the several Courts and Masters of Chancery, as in *England* or *Great Britain*; either some Record, Act of Parliament, or ancient Usage, must be shewn, whereby to make a Difference, (which has never yet been attempted) or else from our very Constitution it must, as we conceive, appear, that whatever Power of Judicature is lodged in the *English* or *British* Parliament, with Respect to that Kingdom and its inferior Courts, the same must also be allowed to be in the Parliament of *Ireland*, with like Respect to the Kingdom and Courts thereof. And if it be looked upon as illegal, for any inferior Court in *Great Britain* to act in direct Opposition to, or Contempt of, the Orders and Decrees of the House of Lords in Parliament there assembled, the same must also be concluded upon the like Opposition given, or Contempt shewn, to such parliamentary Orders and Decrees as are or shall be made within this Kingdom.

And

And therefore, in the Year 1703, when a Parliament of *Ireland* met, on a Complaint of *Edward* Earl of *Meath*, and *Cecilia* Countess of *Meath*, his Wife, setting forth, that during the Interval of Parliament they had, by Order of the Lords in *England*, been dispossessed of the Lands that had been here decreed them, the said Parliament unanimously restored the said Earl and Countess to the Lands they had been so dispossessed of, so effectually, that neither they nor their Heirs have been disturbed in the Possession of them.

And we may very justly conclude, from the strong Resolutions in which the Parliament here did, on that Occasion, assert their Jurisdiction, that they would have proceeded as effectually in vindicating the Decree on the other Appeal, if the Removal of the Lord Bishop of *Derry*, the Appellant here, and a Composition made by his Successor with the *Irish* Society of *London* *Derry*, the Appellants in *England*, had not prevented it.

After the Time of those two Appeals, several Writs of Error and Appeals were brought into your Parliament in this Kingdom, and among them an Appeal, wherein *Maurice Annesley*, Esq; was Respondent, which were determined, and the Judgment given on them took Effect

accordingly. But the same *Maurice Annesley* being Respondent in an Appeal, brought lately from the Chancery of the Exchequer before the Parliament of *Ireland*, by *Hester Sherlock*, Appellant, after having appeared to the Jurisdiction here, appealed to the Lords of *Great Britain*, from a Decree made here in Justice to the Appellant *Hester Sherlock*, and found such Countenance there, as has given your loyal Subjects just Reason to complain of much Injury done, both to your Majesty's Prerogative and their Privileges.

For it having (after a full and fair hearing) been decreed in your Majesty's Parliament of *Ireland*, and accordingly ordered, that the Appellant *Hester Sherlock* should be put into Possession of certain Lands in the said Order named, until she should receive thereout a certain Sum of Money to her decreed to be due, and chargeable on the said Lands; and the said Decree and Order having accordingly been obeyed and put into Execution by the then High Sherriff of the County of *Kildare*, to whom the said Order was directed, and the said *Hester Sherlock* being accordingly in actual Possession of the said Lands; the Lord Chief Baron, together with the other Barons of your Majesty's Court of Exchequer in this Kingdom, have taken upon them, in
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an illegal and unprecedented Manner, to cause the said *Hester Sherlock* to be dispossessed of the said Lands, and to lay several great Fines upon the late High Sherriff of the said County of *Kildare*, for refusing to give Obedience unto the Orders of them the said Barons, in that Case issued; although their said Orders were manifestly contrary to the Laws, Customs, and ancient Usages of this your Majesty's Kingdom, as well as to the above-mentioned Resolutions, formerly made in the Case of the late Earl of *Meath*, and continuing upon Record in the Journals of Parliament; of which Resolutions, as well as of the several Resolutions and Decrees in like Manner made upon the Appeal of the said *Hester Sherlock*, the said Barons had sufficient and timely Notice, before the issuing of any of their above-mentioned illegal Orders, as in a Report of this whole Proceeding, now also entered in the Journals of Parliament, (a Copy whereof we herewith humbly lay before your Majesty) may more fully and at large appear.

Hereupon we humbly crave Leave to represent unto your Majesty, that altho' Appeals from the Courts of Equity in this Kingdom, to the Lords of *England* or *Great Britain*, are but a very late Practice, as we have already set forth; yet in
all

all such Cases it has been the constant and received Practice here, that no Copy of any Order of the said Lords was ever allowed, or demanded to be allowed, as authentic, in any such Court, except the same were expressly directed unto the Court which was to put the same in Execution, and proved by a Witness, *viva voce*, upon Oath, to be a true Copy of the original Order; nor does it appear that any such Court ever claimed or pretended to any Authority to supply any Defects supposed at any Time to be in any such Order, or, by Virtue of such Order, in the least to go beyond what expressly and in Words was in such Order contained. And yet so it is, that although the only Pretence of the said Barons, for these their illegal Proceedings, is grounded upon certain Copies of Orders or pretended Orders from the Lords of *Great Britain*; yet neither were the said Orders or any of them directed to the Court of Equity, or Chancery Side of the Exchequer, where the Cause originally lay, and from whence the Appeal was, but only to the Lord Chief Baron and other Barons, which is the Stile of the Common Law Side thereof; nor were the said Copies, or any of them, in Manner aforesaid proved to agree with the original Orders; neither were the Names of any Lands, or so much as of any County,

County, inserted in the said Copies, or any of them. And yet, notwithstanding all these notorious Defects and Nullities of the said pretended Orders, the said Barons have proceeded, not only in their own Names, to whom the said pretended Orders were directed, but also in the Names of the Chancellor and Treasurer of the Court of Exchequer, to whom the said Orders were no Way directed, to issue forth several Injunctions and Orders, and therein, without any Warrant for so doing, to insert the Names of Lands, and of the County wherein they are supposed to lie, in order to dispossess the said *Hester Sherlock* of the Lands whereof she had been put in Possession, as is herein above-mentioned.

And that your Majesty may be yet more fully apprized of the Arbitrariness, as well as Illegality of the Proceedings of the said Barons, we farther in all humble Manner lay before your Majesty, that whereas, amongst other Rules of Practice in all your Majesty's Courts throughout this your Kingdom, by ancient Law and Custom established, it is universally received, that every Order or Rule of Court ought to be made upon the Motion of some Council or Attorney, or other Person by Law or Custom allowed to make such Motion; that no Injunction or Writ ought to issue out of any of your
Majesty's

Majesty's Courts, except in the Crown's Cause, without the Name of a Six-Clerk or Attorney thereunto subscribed, who is to be accountable unto every Person, who, through any undue Practice of his, shall be aggrieved by such Writ or Injunction; and that no Proceedings shall be grounded upon any written Affidavit, which is known to be either false or defective in any material Part thereof, except such Defect be first supplied, or Falsity expunged: The said Barons, in these their Proceedings, have acted in open Violation of these as well as other Rules, which by the Laws they ought to have observed and strictly kept to; the Barons having ordered an Injunction to issue, for the dispossessing of the said *Hester Sherlock*, without any Motion for the same made either by Council or Attorney, or by any other Person, except what was offered in Court by the Lord Chief Baron himself; the said Injunction also having no Name of any Attorney thereunto affixed or subscribed, and the Affidavit of *John Annesley* (upon which the said Barons afterwards proceeded to fine the said late High Sheriff) having several notorious Falsities in it; of which tho' the said Barons were publickly advertised at the Time when the said Affidavit was read in open Court, yet they took on them to act thereupon,

upon, without causing the same to be rectified, or the said Falsities to be expunged or altered:

And although the said Orders from the Lords in *Great Britain* expressly required no more, but that *Maurice Annesley* should be restored to the Possession of those Lands of which the said *Maurice* was dispossessed, pending the Appeal before the said House; yet the said Barons, in their said Injunction, not only ordered Possession of certain Lands by Name to be given to the said *Annesley*, as is already mentioned, but also grounded this their Injunction upon an Affidavit, wherein it is not so much as alledged, that the said *Maurice* was at all possessed or dispossessed of any Lands whatsoever, pending the said Appeal.

And whereas it is the Duty of the Barons of your Majesty's Court of Exchequer in this Kingdom, and a Part of the Oath by each of them taken at their Entrance upon their said Office, that where they may know any Wrong or Prejudice to be done to the King, they shall put and do all their Diligence that to redress; and if they may not do it, they shall tell it to the King, or them of his Council, or to the King's Majesty's Lieutenant, or other chief Governour or Governours of this Realm for the Time being: So far have the said Barons, in the present Case,

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been

been from doing all their Diligence to redress the Wrong or Prejudice done to your Majesty's Prerogative of finally determining, in your Parliament here, Matters relating wholly to this your Kingdom, that they seem to have acted with great Diligence and Zeal in direct Opposition thereto, and to have taken such Measures as will in Effect establish a Jurisdiction, superior to that which your Majesty undoubtedly has in your high Court of Parliament in this Kingdom: Nor does it in the least appear, or is it at all pretended, that the said Barons, or any of them, during all the above-mentioned Proceedings, did ever tell or make known the same, either to your Majesty's Lieutenant, or other chief Governour or Governours, or to your Majesty's Privy Council; who, if they had been timely acquainted therewith, might, according to their Duty, have made the same known to your Majesty, or otherwise have done what was fit and proper for the supporting your Majesty's Royal Prerogative, and defending the just Rights and Privileges of this your Parliament and People.

And here we beg Leave to lay before your Majesty some of the many evil Consequences, which we apprehend must necessarily follow from such exorbitant Practices

Practices as these, if a timely and effectual Stop be not put to them.

It is the Right and Happiness of the Subjects of this Kingdom, as well as those of *Great Britain*, that, by their respective Constitutions, the Administration of Justice is near at Hand, and within the Kingdom whereunto they belong; so that if any of your Majesty's Liege People are at any Time wronged or oppressed, in any of the Courts of Law or Equity, they may, without any great Trouble or Expence, have Recourse to your Majesty, in your High Court of Parliament, where they may assure themselves of speedy Redress. But if this your Majesty's highest Court within this Kingdom is deprived of the Power of finally determining the Causes which come before them, all such of your Subjects as do not abound in Wealth, and thereby are not able to follow their Causes, or bear the Expence of them in *Great Britain*, will be under a perpetual Necessity of sitting down with the greatest Wrong or Oppression, which at any Time, under the Colour of Justice, or by the Management of rich and potent Adversaries, may be laid upon them; which (considering the Poverty that every where prevails throughout this Kingdom) must, if not prevented, in a short Time become a most grievous and intolerable

lerable Evil. And your Majesty's Royal Predecessor, *Edward the Third*, was so sensible of the Hardships that his loyal Subjects of this Kingdom suffered, for Want of having a Means of reversing erroneous Judgments within the Kingdom, that by his Charter dated *August* the 30th, in the Twenty-ninth Year of his Reign, on the Complaint of his Subjects of *Ireland*, he commanded all his Judges and Ministers, before whom any Process should be held, at the Prosecution of the Parties aggrieved, to return the Rolls of the Records and Processes into the Parliaments to be held in the Kingdom of *Ireland*, and that the Records and Processes should be recited and examined, and the Errors, if any should be found in them, duly corrected.*

It

* Pryn on 4th Inst. pag. 287. anno 29 Ed. III.—*Edwardus Dei gratia, &c.* Ex parte nonnullorum fidelium nostrorum communitatis terræ nostræ *Hiberniæ*, nobis est graviter conquerendo monstratum, ut cum ipsi damna & gravamina quam plurima a magno tempore sustinuerint, ex hoc, et etiam ex hoc, quod errores, qui in recordis & processibus placitorum, in Parliamentis in eadem terra, corrigi nequeunt, nec alias justitia inde fieri, sine remedio in Angl' querendo; propter quod quidam, propter labores & expensas circa præmissa appositos, ad maximam miseriam & inopiam deducuntur, & quidam omnino ex hereditate existunt. Per quod, pro quiete & indemnitate populi nostri in terra prædicta, sub nostro regimine existentis, cui in exhibitione justitiæ sumus debitores, ordinamus, quod & quod ad prosecutionem omnium & singulorum qui conqueri voluerint, errores in recordis & processibus, coram aliquibus Justitiis seu aliis ministris prædictis habitis intervenisse, rotuli eorundem recordorum & processuum, in Parliamentis nostri in eadem terra

It is, under God, the great Security of this your Majesty's Kingdom of *Ireland*, that, by the Laws and Statutes thereof, the same is annexed and united to the Imperial Crown of *England*, and declared to be depending upon and for ever belonging to the same; but if all Judgments, Decrees, and Determinations, made in this your Majesty's highest Court within this your Kingdom, are subject to be nulled and reversed by the Lords in *Great Britain*, the Liberties and Properties of all your Subjects of *Ireland* must thereby become finally dependant on the *British* Peers, to the great Diminution of that Dependance, which by Law we always ought to have immediately upon the Crown itself.

That your Majesty has, by the Constitution of this your Realm of *Ireland*, the full Power of judging and determining all

terra tenenda per Justic' seu ministros coram quibus recorda & processus illa fuerint, deferantur, & ibidem eadem recorda & processus diligenter recitentur & examinentur, & errores, si quos eisdem inveniri contigerit, debite corrigantur. Et ideo vobis mandamus, quod ordinationem prædictam in terra nostra prædicta teneri, et partibus conquerentibus plenam & ceteram justitiam fieri fac, in forma prædicta; quibuscunque mandatis vobis aut aliis, in terra prædicta, ante hæc tempora, in contrarium directis, non obstantibus. Ita quod aliquis materiam non habeat nobis, pro defectu justitiæ super casibus prædictis, de cætero conquerendi. Teste Rege, apud Westmister, 30. die Augusti.—It appears from the latter End of this Record, that the original Power of Parliaments in *Ireland*, settled by King *Henry the Second*, (as is above set forth) had afterwards been restrained, as to Writs of Error, by some subsequent Mandates of the Kings of *England*, which Mandates are hereby recalled and made void.

all Causes that belong to it alone, *in pleno Parlamento*, is what no Man hitherto has ventured openly to deny or doubt of.

But if, in all Cases that relate to this Kingdom, the *derniere* Resort (as some of late have affected to speak) ought to be to the House of Lords in *Great Britain*, however this your Majesty's Power may still in Words be acknowledged, the Force and Effect of it is in Reality taken away, and wholly vested in the *British Peers*.

And we cannot but observe, with the utmost Concern, that by this Practice of the Peers of *Great Britain*, just and unjust Causes will meet with equal Encouragement; for, however rightly such Causes may be determined in Parliament here, the Decrees will be annulled and reversed by the Peers of *Great Britain*, without hearing or entering into the Merits of the Cause, upon Pretence that the Proceedings were *coram non judice*.

The Writs for summoning the Lords Spiritual and Temporal, and electing the Commons, to assemble in Parliament here, being the very same with those in *England* or *Great Britain*, as has been before observed, either the respective Powers in each Kingdom must still be the same, or else the Peerage of this your Majesty's Kingdom must remain little more than an empty Title, and the Commons

mons thereof stand for ever deprived of that most valuable Privilege of impeaching in Parliament; which cannot possibly be maintained, if there be no such Thing as a parliamentary Judicature within this Realm: And if the Power of Judicature may, by a Vote of the *British* Lords, be taken away from the Parliament of *Ireland*, no Reason can be given why the same Lords may not, in the like Manner, deprive us of the Benefit of our whole Constitution.

It is notorious, that the Lords of *Great Britain* have not in themselves, either by Law or Custom, any Way of putting their Decrees in Execution, within this Kingdom; of which they have given most undoubted Evidence, by their late Application to your Majesty, to cause such their Decrees to be executed, by an extraordinary Interposition of your Royal Power. And should your Majesty think fit to yield to this their Desire, we humbly presume to think it would highly affect the Liberty of your Majesty's loyal Subjects of this Kingdom.

In order to prevent the Appellant *Hester Sherlock* above-mentioned from making any farther Application to your Parliament here, your Majesty's Deputy Receiver, *John Pratt*, Esq; thought fit to pay above One Thousand Eight Hundred Pounds to the said *Hester Sherlock*,
which,

which, on Examination, he alledged to be his own Money, and that he made an Agreement with the said *Hester* of himself, without any Order from any Person whatsoever; but that, from some Conversation he had with Persons of Judgment, he thought he had Reason to hope and expect, that, since what he had done was for the public Good, the Government would not permit him to be a Sufferer. What particular Grounds the said *John Pratt* had, thus to hope and expect, has not as yet been made known to us; but if such Hopes and Expectations as these are from Time to Time to be satisfied, we leave your Majesty in your Royal Wisdom to judge, what the evil Consequences thereof may be.

And we farther humbly represent to your Majesty, that these Proceedings of the Lords of *England* have greatly embarrassed your Parliament, and disquieted the Generality of your most loyal Protestant Subjects of this your Kingdom, and must of Necessity bring all Sherriffs and Officers of Justice under great Hardships, by Reason of the clashing of different Jurisdictions: Nor can we but with Grief observe, that whilst many of the Peers and Commons who sat in Parliament were Papists, their Judicature was never questioned; but of late, since only Protestants are qualified to have a
Share

Share in the Legislature, their Power, and the Right of hearing Causes in Parliament, hath been denyed, to the great Discouragement and Weakening of the Protestant Interest in *Ireland*.

And having thus, with all Humility, laid before your Majesty your undoubted Power and Prerogative within this your Kingdom of *Ireland*, the immediate Dependance of the same upon your Majesty's Crown, the Right your Majesty has to hold Parliaments here as in *Great Britain*, and of finally determining therein all Matters that wholly relate to this Realm; together with the great Encroachments that of late have been made upon your Majesty's Prerogative and the Rights of this your Parliament, and the illegal, unprecedented Proceedings of the Lord Chief Baron and the other Barons of your Majesty's Court of Exchequer, whereby they have endeavoured to support those Encroachments, with the evil Consequences of such Proceedings, in Case that a speedy and effectual Stop be not thereunto put: We most humbly hope, that all these Things being duly considered and weighed with your Majesty's usual Wisdom, will abundantly justify us in the Methods we have taken, as well for the supporting of your Majesty's Royal Prerogative, as the Preservation of the just Rights and Liberties of
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ourselves

ourselves and our Fellow-Subjects, as the same are set forth in the several Resolutions we have come to, a Copy whereof we have hereunto annexed: With all Humility assuring your Majesty, that no Difficulties, which we may be laid under, shall hinder us from giving the utmost Dispatch to all your Majesty's Affairs, or from most chearfully demonstrating that Loyalty and Affection to your Majesty's Person, and Attachment to your Interest, which becomes your Majesty's dutiful and obedient Subjects, whereof we again from our Hearts make an humble Tender to your Most Sacred Majesty.

Die Jovis, 22^o die Octobris, 1719.

Hodie 3^a vice lecta est Billa, intituled, An Act for exempting the Protestant Dissenters of this Kingdom from certain Penalties, to which they are now subject.

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient

1st, Because the perfect Agreement and Unanimity, which has constantly hitherto been maintained between the Laws of *England* and *Ireland*, in all Things that relate to Religion and Ecclesiastical Matters, as far as the Circumstances of this Kingdom would possibly admit

admit thereof, is by this Bill in a very great Measure taken away, to the endangering, as we conceive, of the Security of the Church of *Ireland*, as at present by Law established.

2dly, Because the Benefit of the Toleration, by this Bill granted, extends in an unprecedented Manner, not only to those Dissenters whose Principles are already known, but also to all Persons whatsoever, who go under the Name of Protestants, whatever their Principles are, or hereafter at any Time may be; whereby it may probably come to pass, that wicked and evil designing Men, under the Name of Protestant Dissenters, may poison the Minds of the People, by instilling such Opinions into them, as in their Consequences may tend to the total Subversion even of Christianity itself, as well as of the established Religion and civil Constitution of this Kingdom; there being no Way left, as we apprehend, of discovering or restraining them, but what is liable to the greatest Difficulties.

3dly, Because we conceive that this Bill, not restraining any Protestant Dissenter from setting up for a Teacher, even before he has any Congregation to join with him, will give Encouragement to such Persons to go about seeking for Disciples and Profelytes; which (as we apprehend) will greatly tend to the

distracting and dividing the Minds of the good Subjects of this Kingdom, and consequently to the weakening of the Government.

<i>Tho. Armagh,</i>	<i>Dunkellin,</i>
<i>Will. Dublin,</i>	<i>Tho. Offory,</i>
<i>Ed. Tuam,</i>	<i>Granard,</i>
<i>Wellbore Kildare,</i>	<i>Mayo,</i>
<i>Will. Clonfert,</i>	<i>Charlemont,</i>
<i>Tho. Limerick,</i>	<i>Blessinton,</i>
<i>John Clogher,</i>	<i>Altham,</i>
<i>E. Down & Connor, Kingston.</i>	

Die Mercurii, 8^o die Novembris, 1721.

Resolved, That it is the Opinion of this Committee, that the erecting a Bank in this Kingdom, or incorporating any Number of Persons into a Body Politick, for the Management and Government of such Bank, may, in the present Circumstances, be prejudicial, and of extreme ill Consequence to this Kingdom.

The Question was put, whether this House shall agree with the said Committee in this Resolution?

It was resolved in the Affirmative.

Dissentient

We whose Names are under-written, do dissent from the foregoing Resolution, for the following Reasons:

1st, That nothing relating to a Bank having been moved in this House 'till Monday the 6th inst. nor any of the Papers,

pers, which were previous to his Majesty's Letter and Commission for taking Subscriptions to a Bank, being brought into the House 'till the Day in which this Resolution passed, we conceive the Time was much too short for the due Consideration of a Matter of so great Importance.

2dly, We are of Opinion, that the Establishment of a Bank, upon sufficient Securities and under proper Regulations, would be highly for the Advantage and Increase of the Trade of this Kingdom, by furnishing Money to the Merchant at a low Interest, and by receiving the Money lent in such Sums and at such Times as might be most for the Ease and Benefit of the Trader.

3dly, We are of Opinion, that a Bank well established would much increase and improve the Manufactures of this Kingdom, by employing many Thousand more Hands in Work, which are now a Loss and Burthen to the Kingdom, and by a more speedy and certain Sale of the Manufactures in the several Markets; which the Circulation of Paper Credit could not fail to effect, where the Security for the said Paper is undeniable.

4thly, That the current Species of Money in this Kingdom being, in our humble Opinion, no Way equal either to the carrying on the Trade or paying the
Rents

Rents of the Kingdom, there seems to us to be an absolute Necessity of a Paper Credit, to supply the Deficiency of Coin; which Credit we take to be far better secured by an incorporated Bank, properly limited by Act of Parliament, than as it is, in the Hands of a few Bankers, without Limitation, Security, or Regulation.

5thly, That the strongest and most material Objections, made against a Bank, were taken from the Schedule annexed to his Majesty's Commission, all or most of which (if they had any Force in them) might have been removed by due Restrictions in an Act of Parliament; but this Resolution prevents the House from coming into any Heads of a Bill, either to erect a Bank, or to put the Charter under due Restrictions.

6thly, Lastly, that his Grace the Lord Lieutenant (out of a generous Concern for the true Interests of this Kingdom) having with great Pains and Care obtained this Favour for us; and his Majesty, by the Advice of his principal Ministers of State and the Lords Commissioners of his Treasury, having been graciously pleased to approve of the Bank, as a real Benefit to his Subjects of this his Majesty's Kingdom; we have just Reason to fear, that the above Resolution may prove an Obstacle to any future Sollicitations

Sollicitations that we may stand in Need
of for the Advantage of this Kingdom.

Limerick,

Ralph Dromore,

Ferrard,

Fr. Down & Connor,

Boyne,

Strabane.

Die Lunæ, 27^o die Januarii, 1723.

The Question was put, whether a Bill,
intituled, An Act for accepting the solemn
Affirmation and Declaration of the Peo-
ple called Quakers, in certain Cases, in-
stead of an Oath in the usual Form,
should pass?

It was resolved in the Affirmative.

Dissentient'

Middleton Canc.

1st, Because it being a great Security
to all his Majesty's Subjects of this King-
dom, in the quiet Enjoyment of their
private Fortunes, that no Man, as the Law
now stands, can be deprived of his Pro-
perty, but by Testimony given upon
Oath, which is the strongest Obligation
that can be laid upon Conscience; if this
Bill should pass into a Law, this Secu-
rity will be in very many Cases taken
away, without any Equivalent being
given for it; the Obligation of a solemn
Affirmation or Declaration being not so
great a Tye upon the Conscience as that
of an Oath, and the principal Men of the
Quakers having several Times refused to
submit to any Declaration or Affirma-
tion,

tion, wherein it should be exprefsly mentioned, that to speak falſely or deceitfully in ſuch a Declaration or Affirmation is a great Sin, or to have any Clause to that Purpose inserted in the Bill before it was tranſmitted into *Great Britain*. For which Reason, if we ſhould conſent to the paſſing of this Bill, we think it would be in us a betraying and giving up the Rights and Properties of ourſelves and of our Fellow-Subjects, wherewith we are entrusted, by making them ſubject to the bare Affirmation or Declaration of every Quaker, in all the ſeveral Caſes in the ſaid Bill mentioned.

2dly, Becauſe if this Bill ſhould paſs into a Law, it will thus affect the Rights and Properties of the Subjects of this Realm, in Relation not only to the Time to come, but alſo to that which is paſt; there being very many Perſons who, at this Time, in the Way of Trade and Buſineſs, have Accounts current with ſeveral of the Quakers, and by this Law will ſtand obliged to pay all the Demands which ſuch Quakers, under the Limitations in this Bill mentioned, ſhall pretend to have upon them, without any other Proof of the Juſtice of the ſaid Demands, but the bare Affirmation or Declaration of ſome of themſelves; which we look upon to be a Retroſpect, and therefore as much as may be to be avoided

avoided in the making of every new Law.

3dly, Because we are of Opinion, that the granting so great a Privilege as this Bill does to the Quakers, will not only tend to the great Hurt of his Majesty's good Subjects of this Kingdom, but also be a great Temptation to many weak as well as worldly Persons, to hazard their Salvation by joining themselves to that Sect, as seemingly acknowledged by us to be Men of greater Probity than all others, as well as thereby to become for the most Part useless to the Publick as Magistrates, Soldiers, Jurymen, Constables, or in any other Capacity, except that of getting Wealth for themselves alone; for all which we conceive that we should be answerable, in Case we should give our Consent to this Bill.

4thly, Because this Bill prescribes no certain Way of knowing who is a Quaker, (and consequently entitled to the great Privilege therein proposed to be granted to that Sect) save only a Certificate, to be signed by six credible Persons, of his being one of their Congregation, without directing any Method of Enquiry, whether they who sign the said Certificate are really Persons of Credit, or even themselves Quakers; nor are the Persons who are empowered in any Case to receive their Affirmations or Declara-

tions, required or obliged to demand any such Certificate from them; which we take to be granting a very extraordinary Privilege, without sufficiently pointing out or describing the Persons who are to enjoy the same, whereby a Matter of very great Consequence to the Properties of his Majesty's good Subjects is left at a great Uncertainty.

5thly, Because by this Bill the Punishment which is to fall upon a Quaker, in Case he falsely affirms or declares, seems not so great as in Reason it ought to be; which we fear may be an Encouragement to Men of that Sect, to prevaricate in their Testimony, whenever they shall be thereunto tempted, by the Prospect of Gain to themselves or their Friends: For as scarce any Man has the same dreadful Apprehension of the Sin of lying, as most Men have of that of false swearing, so by our Laws, as they now stand, Perjury subjects a Man not only to certain Penalties and Forfeitures, but also to a perpetual Incapacity of ever again being admitted as a Witness in any other Cause; whereas this Bill, though it appoints the same Penalties and Forfeitures to be incurred by a Quaker, for falsely affirming or declaring, as for Perjury, yet it seems not to lay him under any future Incapacity of being admitted as a Witness. Nor could we obtain a

Respite

Respite to the passing of this Bill, even for one Day, that the Opinion of his Majesty's Judges touching this Point might first be required.

6thly, Because it is plain to us, that the Quakers, whatever they may pretend, do not really look upon an Oath to be unlawful; none of them having ever made the least Scruple of producing other Witnesses, whenever there was Occasion, to swear in their Behalf, and many of themselves having often taken an Oath in the common Cause of Justice: And therefore we cannot but look on the great Privilege granted them by this Bill, (however otherwise intended) in Reality to be not so much an Indulgence to the Tenderness of their Consciences, as a Gratification of their Vanity and Singularity, as well as greatly promoting their worldly Interest.

7thly, Because we cannot but look upon the great Honour by this Bill done to the Quakers, to be in its Consequence a Dishonour done to all the rest of Mankind: their Affirmation or Declaration, without an Oath, being in many Cases to be taken, where the Testimony of any other Man, and even a Member of this high Court of Parliament, is not to be admitted, except it be given upon Oath; which we take to be in some Sort a Degradation of ourselves, as well as all other

Men, below the Rank of the meanest and most contemptible Quaker.

Ed. Tuam,

Mayo,

Charlemont,

Strabane,

John Clogher,

Tho. Offory,

Charles Killaloe.

Die Sabbati, 8^o die Februarii, 1723.

An Act for continuing and amending of the Laws in Relation to Butter and Tallow, and the Casks in which such Goods are to be made up, and in Relation to the curing of Hides, and making up of Beef and Pork for Exportation, and for the preventing the Destruction of Salmon.

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient

1st, Because, by the Act made in the Eighth Year of his Majesty's Reign, intituled, An Act for further Amendment of the Laws in Relation to Butter and Tallow Casks, &c. the Weigh-Master is to be paid, for each Cask of Butter of Half an Hundred Weight or under, only One Farthing, and for each Cask of One Hundred Weight or upwards, One Halfpenny; and by this Bill he is to receive, for each empty Cask weighed and branded, and for every Barrel, Half-Barrel, or Firkin, or other Cask of Butter, One Penny

ny for each Cask, and for every Cask of Tallow, for each Hundred Weight One Halfpenny: Which Increase of Fees to the Weigh-Masters, beyond what they are intitled unto by the Act now in Force, will, as is conceived, be a great Clog on Trade, and to the public Detriment, by lessening the Price of Butter and Tallow, especially in the Port of *Cork*, where Butter is generally exported in small Casks.

2dly, Because the Weigh-Masters already appointed in the City of *Cork*, which is the great Port of this Kingdom for Exportation of Butter and Tallow, have hitherto discharged their Duty, without giving Cause of Complaint, and contented themselves with the Fees given by the Act already in being, without desiring or expecting any Increase, and have been and still continue ready to do the same for the former Fees, without becoming burthensome to the Trade of that Place by the Increase of Fees.

3dly, Because by this Bill *Edmond Knap* and *Edward Hoare*, Esqrs. are the two Citizens elected to represent the City of *Cork* in this Parliament, and as such are entrusted with the Preservation of the Rights, Liberties, and Properties of that City, to whom the Appointment of Weigh-Masters doth belong, by the Act now in Force; and by this Bill the said
Edmond

Edmond Knap and *Edward Hoare* are appointed Weigh-Masters of that City for Life: which Office if the said *Knap* and *Hoare* have endeavoured to be granted to them, their so doing seems to be to the Prejudice of their Employers and Constituents, whom they represent in Parliament, and to be a Breach of the Trust in them reposed by the Persons who elected them their Representatives in Parliament, and therefore it seems not proper to lay them under an Obligation to take on them the Execution of that Office.

4thly, Because there are Persons already legally appointed by the Mayor and Corporation of *Cork*, pursuant to the Act now in Force, to execute the Office of Weigh-Masters in that City, who have erected Weigh-Houses, bought Beams, Scales, and other Things necessary for the Execution of that Office, which will be of no Use to them if they are deprived of their legal Interest in the said Office, as they will be if this Bill pass, without any Satisfaction or Amends made to them, or obliging their Successors to purchase those Things necessary to the carrying on the weighing Butter, &c. in the said City.

5thly, Because the private Property and Right of the City of *Cork*, in granting the said Office, and the Interest of the

the Weigh-Masters already appointed by them, will be taken away, without assigning any Mismanagement or Default in them in the Execution of their respective Duties, which seems not consistent with the Rules of Equity and Justice.

Middleton Canc.

Die Sabbati, 28^o die Septembris, 1723.

We protest against the following Votes.

An Amendment being proposed after the second Paragraph in the Address to his Majesty, relative to Mr. *Wood's* Patent, as follows, *viz.*

[And give us Leave, Sir, upon this Occasion, to lay before our most gracious Sovereign, that whosoever were the Persons that have confederated with the said *William Wood*, in procuring the said Patent, are justly chargeable with a Design to enrich themselves, whatsoever fatal Consequences to this Kingdom would manifestly ensue, if a timely Stop should not be graciously put thereunto by your Majesty:]

The Question was put, whether this Amendment shall stand Part of the said Address?

It was resolved in the Negative.

Another Amendment being proposed after the said Paragraph, as follows, *viz.*

[And give us Leave, Sir, upon this Occasion, to lay before our most gracious
Sovereign,

Sovereign, that whosoever were the Persons that advised your most sacred Majesty to grant the said Patent, are justly chargeable with a Design to enrich *William Wood* and his Partners and Abettors, whatsoever fatal Consequences to this Kingdom would manifestly ensue, if a timely Stop should not be graciously put thereunto by your Majesty:]

The Question was put, whether this Amendment shall stand Part of the said Address?

It was resolved in the Negative.

Dissentient

The foregoing Amendments were grounded on a Resolution of the House, when a Committee was ordered to draw up an Address on the Resolutions and Debates of the Lords; and we conceive, that leaving out any Mention of Confederates and of Advisers, as above proposed but rejected, may give a Handle to Persons disaffected to his Majesty's Government, to insinuate, that his Majesty of himself did order the said pernicious Patent to be passed;---a Thought we abhor, and believe was never intended by the Lords.

Will. Dublin,

Strabane.

Die Lunæ, 18^o die Martii, 1727.

A Motion being made, and the Question put, that an engrossed Bill sent up
by

by the Commons, intituled, An Act for accepting the solemn Affirmation or Declaration of the People called Quakers, instead of an Oath in the usual Form;

It was resolved in the Affirmative.

Dissentient

1st, Because the Property of the King and his Subjects is by this Act much less secure than it needed to have been; for however reasonable it may be thought to excuse the Quakers from taking an Oath, yet the Form of Words in which they are to affirm or declare, might, and we think ought to have been such, as might be proper to awaken in their Consciences a present Sense of the Obligation that lies upon them to speak the Truth, and of the Sinfulness of speaking falsely or deceitfully, which might have been done without imposing an Oath upon them. And this, as we conceive, not being sufficiently done by this Act, and the Quakers having industriously solicited, that they should not be obliged to the Use of any such Form of Words as might expressly, even without an Oath, put them in Mind of the Sin of speaking falsely or deceitfully; if we should give our Consent to pass this Bill into a Law, it would in us be to expose the Property of his Majesty and our Fellow-Subjects to too great an Uncertainty; there being many Men, as we believe, among the

M Quakers,

Quakers, as well as others, who, for their private Gain or Interest, will not much scruple to lye or equivocate, when no more but a bare Affirmation or Declaration is required from them.

2dly, Because if this Bill passes into a Law, it will thus affect the Rights and Properties of our Fellow-Subjects, in Relation not only to the Time to come, but also to that which is past, against which it is impossible to guard; a Quaker's Evidence being thereby to be made as good, in a Cause already begun in any of the Courts, as in any Suit that shall hereafter be commenced, and concerning any Dealing or Transaction which formerly has been, as any that is yet to come; which we take to be a Retro-spect, that ought to be avoided in the making of a Law.

3dly, Because the granting so high a Privilege to the Quakers, as that their Affirmation or Declaration, even without any Words therein inserted which may be sufficient to awaken their Consciences, shall, in all civil Causes, be of equal Force with the Oath of any other Man, appears to us to be a tacit Acknowledgement that they are Men of greater Honesty and Probity than all the rest of Mankind, and consequently to be a Dishonour to Men of all other Professions, and a Degradation even of those who are
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in the highest Station in the Kingdom, below the Rank of the meanest and most contemptible Quakers.

4thly, Because we are of Opinion, that so great an Honour done to the Quakers will be a strong Temptation to many weak and worldly Persons, to forsake their own Religion, and embrace that Profession, and thereby not only to forfeit their eternal Salvation, but also to render themselves incapable of serving the King and Country in the Office of Magistrates, Soldiers, Jurymen, High or Petty Constables, Churchwardens, or any other public Station in the Kingdom, in which, notwithstanding this Act, we believe they will not be trusted upon their bare Affirmation, without an Oath.

5thly, Because this Bill prescribes no certain Way of knowing who is a Quaker, nor gives any Rule to the Judges or Juries who act upon their Oaths, how this Point is to be determined, in Case at any Time Exception should be made against the Testimony of this or that particular Man, as not being really a Quaker, although he takes that Name upon him; it being notorious, that many Persons who have taken that Name upon themselves, and for several Years have constantly associated with the Quakers, have, upon Occasion, been denied by them, as having never been really Quakers.



kers. Nor can the Certificate, which this Bill requires to be produced, of a Man's being a Quaker, be any sufficient Evidence in the Case, except some certain Rule be prescribed, whereby to know whether the Persons who sign the same are not only in Name but in Reality Quakers; the Want of which Rule, we conceive, must often lay conscientious Judges and Juries under an insuperable Difficulty, their Oaths obliging them to judge and find according to Evidence, and at the same Time the Law not sufficiently declaring what that Evidence is, upon which a Jury shall find a Man to be a Quaker, or a Judge shall decree him so to be.

6thly, Because it is plain, that the Quakers, whatever they may pretend, are not in their Consciences persuaded, that it is unlawful to answer upon Oath before a Magistrate; none of them having ever made the least Scruple of producing other Witnesses, so to answer in their Behalf, and many of the soberest of them having answered Bills in Chancery, upon their Oaths, before the late Statute was made to free them from it. It being also well known, that in *Pennsylvania*, where the Quakers are Magistrates, they often oblige Witnesses to give their Evidence in this Manner:---*I speak and promise it, in the Presence of God; or, As true*



true as God is in Heaven; or, As the Lord liveth. Nor was the Declaration, which in *Great Britain* they for several Years submitted to, any other than a very solemn Oath. And therefore we cannot but look upon the great Privilege granted them in this Bill, (however otherwise intended) in Reality to be not so much an Indulgence to the Tenderness of their Consciences, as a Gratification of their Vanity and Singularity, as well as a great Promoting of their worldly Interest.

*Ed. Tuam,
Charlemont,*

*Hillsborough,
John Clogher.*

Die Jovis, 21^o die Decembris, 1727.

A Motion being made, and the Question put, That the Debate for addressing his Excellency the Lord Lieutenant, that the proper Officer do lay before this House the publick Accounts of the Nation, be adjourned to this Day Eight Weeks:

It was resolved in the Affirmative.

Dissentient

Because we are humbly of Opinion, that the addressing the Lord Lieutenant, for any Accounts or Papers relating to the Publick, is the undoubted and inherent Right of the Lords, and the postponing or delaying the same, tends, as we humbly conceive, to deprive the Lords from Enquiries, which may be for
his

his Majesty's Honour, and the Ease and Profit of his Subjects.

Rosse,

Kildare,

Mayo,

Meath,

Massereen,

Barrymore.

Howth,

Die Veneris, 26^o die Aprilis, 1728.

Hodie 3^a vice lecta est Billa, intituled, An Act for preventing Inconveniences, that may happen by Privilege of Parliament.

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient'

1st, Because this Bill takes away several antient and legal Privileges, which the Lords Spiritual and Temporal, and Members of the House of Commons, have hitherto had, and, as we conceive, have still a Right to enjoy.

2^{dly}, Because, in our Opinion, the Privileges of both Houses of Parliament are a great and essential Part of the very Constitutions of Parliaments, which we conceive may be of dangerous Consequence to alter or recede from, that Constitution being founded on Reasons of State, which it may be difficult for any Person at this Time to enumerate or shew.

3^{dly}, Because, in our Opinion, the Lords enjoying their Privileges in their full Latitude hath hitherto been a great Strengthening

Strengthening and Security to the Dignity of this House, and to the Respect due to the Members thereof, which we conceive will be lessened in Proportion as our Privileges are abridged.

4thly, Because no Witnesses were produced, nor Proof on Oath given to this House, that any Persons had suffered, by Peers or Lords of Parliament insisting on Privilege in Delay of Justice, but on the contrary it doth appear, by several Entries in the Journals of this House, that the Peers and Lords of Parliament had frequently, from Time to Time, desired Leave from the House to waive the same, and no Instance was produced, that any of them, upon Request made, ever declined so to do, although such Instances were called for, if any such could be given or proved.

5thly, Because a Bill for preventing Lords of Parliament, for the future, from exercising their usual and legal Privileges, seems to us to carry in it an Insinuation, as if an ill Use had been made of their Privileges by the Lords of this House, and as if Peers and Lords of Parliament had formerly delayed Proceedings against them in Courts of Justice, of which no Proof was made to the House, nor any Witness examined thereon; and we conceive, that no Allegations of any
Person

Person ought to be regarded or credited, without Proof thereof upon Oath.

6thly, Because this Bill is perpetual, and therefore, as we conceive, a final Departure from, and a Bar to, the Lords and Peers of Parliament ever to resume their Privileges, from the Enjoyment of which they are debarred by this Bill: Whereas, when the Heads of a Bill for preventing any Inconveniences that may happen by Privilege of Parliament, were under the Consideration of this House, it was apprehended by several Lords, and expected, that the Bill to be formed on those Heads would have been temporary only; so as, after the Expiration of the Time for which such Bill was to continue, the Parliament might have it in their Power either to perpetuate that Law, or let Things run in their antient Channel, according as they should, upon Experience, find it conduce to the Good of the Kingdom, or otherwise.

Under these Hopes and Expectations, the Lords who sign this Dissent gave no Opposition to the laying the said Heads of a Bill before the Lord Lieutenant, in Order to be transmitted into *Great Britain* in due Form, which they otherwise might and would have done.

Barrymore, per Prox. Blessington, p. Prox.
Drogheda, Hillsborough,
Mayo,

Mayo, *per Prox.* Conway, *per Prox.*
 Doneraile, Rosse.
 Tyrone,

We the undersigning Lords dissent to the above Resolution, for the first, second, third, fourth, and fifth Reasons.

Massareen, Charlemont, Middleton.

Die Veneris, 13^o die Martii, 1729.

An Act for the more effectual preventing Riots, and unlawful Confederacies to disturb the Peace, in the County of the City of *Dublin*, and the Liberties thereunto adjoining.

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient

1st, Because we apprehend there are Laws already in being, sufficient to punish and deter People from committing Outrages of the Nature of those in the Bill mentioned; and the creating a new Felony for Crimes which our Ancestors never thought deserved so great a Punishment as Death or Transportation, is laying a Foundation to destroy our Liberties, and expose the Lives and Fortunes of his Majesty's good Subjects in this Kingdom, to the Caprice of corrupt Magistrates, and to the Villainy of wicked Informers, to which this Bill gives the

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largest

largest Latitude and greatest Encouragement, as we apprehend.

2dly, Because we humbly conceive nothing can warrant the passing such a Bill, but the immediate Preservation of his Majesty's Royal Person and our Constitution, which, we praise God, are in no Danger; and the Disorders complained of being committed by a few idle and disorderly People, whose Insults proceed from the Negligence of the Magistrates, by their not putting the Laws already in Force in Execution. Nor do we apprehend, that the Evils complained of by this Bill are remedied, since there is nothing in it to oblige the Magistrates to be more diligent in the Discharge of their Trust.

*Barrymore,
Massereene,*

*Rosse,
Nettirvill.*

Die Mercurii, 5^o die Decembris, 1733.

Resolved, That communicating Heads of Bills, prepared in this House, to the House of Commons, for their Consideration and Concurrence, before they are laid before the Government in Order to their being transmitted to *Great Britain*, will very much facilitate the passing of Bills.

Dissentient

1st, Because, as the Usage of Parliament hath all along been, this House
may,

may, at any Time, by a Conference, know the Sense of the House of Commons, touching any Point of Doubt or Difficulty; which makes it in our Opinion unnecessary to communicate our Heads of Bills to them.

2dly, Because we conceive, that such Communication of Heads of Bills to the House of Commons, will be so far from facilitating the passing of Bills, that it will very much retard and obstruct it, by the Time that must necessarily be taken up in the Methods of passing those Heads of Bills, with all their Amendments, in both Houses, and in the Disputes that may arise upon them.

3dly, Because the present Manner of preparing Heads of Bills hath, by a long Custom, been fixed and established, and the received Custom and Usage of Parliament being reputed to be the Law of Parliaments, we conceive that it is dangerous, without great Necessity and sure Grounds, to alter it by a Resolution of this House.

*Hu. Armagh,
John Dublin,
Edw. Tuam,
Roscomon,
Wyndham,
W. Meath,
C. Kildare,*

*W. Limerick,
N. Raphoe,
M. Clonfert,
Edw. Ossory,
Fr. Down & Connor,
Hen. Dromore,
Altham.*

Die Mercurii, 5^o die Decembris, 1733.

Resolved, That this House will communicate Heads of Bills, prepared in this House, to the House of Commons, for their Consideration and Concurrence, before they lay them before the Government, to be transmitted to *Great Britain.*
Dissentient

1st, Because we conceive it not to be agreeable to the Dignity of this House, to enter into such a Resolution, (if free from all other Objections) before any Assurance given to them, that the House of Commons will do the same.

2^{dly}, Because this Resolution, if it should take Place, seems to deprive this House of a most valuable Privilege, which they have hitherto enjoyed, of laying such Heads of Bills as they themselves should prepare, before the Government and Privy Council, for their Approbation; which, according to this Resolution, they cannot do, without the Consent and Concurrence of the House of Commons.

3^{dly}, Because the Conjunction of both Houses of Parliament may, upon some Occasions, lay the Government and Privy Council under great Difficulties, in rejecting or altering Heads of Bills sent to them; as by Law they are empowered to do, and by their Oaths they are obliged

obliged to do, in Case they judge it to be for the public Good and his Majesty's Service.

*Hu. Armagh,
John Dublin,
Edw. Tuam,
Roscomon,
W. Meath,
Wyndham,
C. Kildare,
N. Raphoe,*

*W. Limerick,
M. Clonfert,
Edw. Offory,
Fr. Down & Connor,
Altham,
Hen. Dromore,
Castle Durrow.*

Die Lunæ, 26^o die Martii, 1750.

Hodie 3^a vice lecta est Billa, intituled, An Act for explaining and making more effectual an Act, intituled, An Act for the more effectual preventing clandestine Marriages, and another Act passed in the 12th Year of his late Majesty's Reign, intituled, An Act to prevent Marriages by degraded Clergymen and Popish Priests, and for preventing Marriages consummated from being avoided by Pre-Contracts, and for the more effectual punishing of Bigamy.

The Question was put, whether this Bill shall pass?

And a Debate arising thereupon,

The House divided, and the Earl of Antrim reported, that the Contents below the Bar were 23, and the Not Contents within the Bar were 5.

It was carried in the Affirmative.

Dissentient

Dissentient

Because this Bill is, as we conceive, at best insignificant, and is become so by the Alterations made in the Heads of a Bill, with the like Title, which passed this House early in the Session; particularly by the Omission of two most material Clauses, the Continuance of which would, in our Judgment have made the Bill correspond with the Title, and really effectual for the preventing of clandestine Marriages of Minors of Quality and Fortune, which Marriages generally bring Ruin on the Persons married, and may occasion the utmost Distress and Confusion in the noblest Families in this Kingdom.

We freely and fully acknowledge the rightful Power of altering Heads of Bills: But we think that this Power, like all others vested in the several Parts of our Legislature, ought ever, in the Exercise, to be directed to the true and only constitutional End of such Powers, the publick Good; and it cannot, in our Opinion, be for the publick Good, that Heads of Bills, wisely framed, for the Benefit of his Majesty's most dutiful and loyal Subjects of *Ireland*, and which in their Nature and Consequences can affect this Kingdom only, without the least Influence on any other Part of his Majesty's Dominions, should be rendered ineffectual,

effectual, or less effectual, by any Alterations whatsoever.

Carrick,

Ed. Elphin.

Die Lunæ, 21^o die Aprilis, 1760.

A Motion was made, that the House should come to the following Resolution:

Resolved, That an humble Address be presented to his Grace the Lord Lieutenant, beseeching his Grace to give Order to all Magistrates, to put the Laws now in Being, against the pernicious Practice of Gaming, into strict Execution.

And a Debate arising thereupon, and the previous Question being put, that the said Question be now put,

The House divided, and the Earl of *Carrick* reported from the Tellers, that the Contents below the Bar were 7, and the Not Contents in the House were 13.

It passed in the Negative.

Dissentient

Because it appears to us, that the Practice of Gaming has arose to so great a Height, that it is absolutely necessary that Magistrates should be ordered to put the Laws against it into strict Execution; and because we think the Lord Lieutenant the most proper Person to give these Orders.

Carrick,

Wandesford,

Annesly.

Die

Die Mercurii, 21^o die Decembris. 1763.

A Message was brought from the House of Commons, by the Lord *Sudley* and others, with an Address to his Majesty, to which they desire the Concurrence of this House.

The said Address being read, a Motion was made, that the Words [honourable and advantageous] in the fifth Paragraph of the said Address, be expunged.

And a Debate arising thereupon,
The House divided,
It passed in the Negative.

Dissentient

1st, Because we conceive it to be ill suited to the Dignity of this House, to pronounce upon a Treaty which never was the Object of our Enquiry as a House of Parliament, nor ever came before us for that exact and particular Examination, which alone can give Weight, as we conceive, to an Opinion expressed in such ample Terms of Approbation.

2^{dly}, Because we do not apprehend, that at this Time we are called upon to declare an Opinion concerning the late Peace, even though this House were sufficiently informed and warranted to make such Declaration.

3^{dly}, Because, at the Opening of the Session, the usual Season for declaring our
our

our Sentiments upon publick Events, and when we seemed particularly invited by the Speech from the Throne, to express our Approbation of the late Peace, no such Approbation was yet expressed by this House; and therefore we deem it necessary to observe the same Conduct at present, in Order to support that Firmness and Consistency so essential to the Dignity of this House.

Kerry, Moura, Charlemont.

Die Novembris, 1765.

[From an Apprehension of Scarcity at the Beginning of this Session, Heads of a Bill passed the House of Commons, to prevent the Exportation of Corn, under certain Restrictions, for a limited Time.

Left, however, *Great Britain* should want Relief from *Ireland*, or that there should appear to be no Scarcity, a Power of suspending the Prohibition was given by the Heads of a Bill, to the chief Governor or Governors, and the Privy Council of *Ireland*.

In this State the Heads of a Bill left the Commons, but were afterwards altered, and a suspending Power given, by the Alteration, to his Majesty, in the Privy Council of *Great Britain*. Great Opposition was given to the Bill, on its Return, and to this Alteration particularly, in both Houses of Parliament.]

A Motion being made, in the House of Lords, that the Corn Bill should be rejected:

It was carried in the Negative.

Dissentient

1st, Because we conceive that a Law to prevent the Exportation of Corn is become unnecessary, and therefore ineligible, inasmuch as any Restriction upon Trade is unadviseable and injurious, where it is not absolutely requisite; besides that upon Grain's becoming cheap, in Consequence of such a Prohibition, and of another Law of this Session for the Suppression of our domestick Distilleries, *English* Merchants might be induced to buy up large Quantities of our Grain at an Under-Value, with a View afterward, by their Interest and Representations, to obtain in *England*, in Consequence of the Alteration which has been made in the Bill, a Suspension of this Law, in order to transport what they had thus purchased; by which Means this Country might be exhausted of its Grain, whilst its Individuals would be inadequately paid for the Produce of their Lands, and this Kingdom might, in Consequence of this Law, be reduced to that Distress, and even Famine, of which this Law was intended to prevent the Possibility, but of which it is in no Danger

ger at present, except from the passing of this Law, as thus altered.

2dly, Because we conceive that the Heads of a Bill, as they went from the Commons, in giving a Power to the chief Governor or Governors, and the Privy Council of this Kingdom, to suspend the Prohibition, provided fully both for this Kingdom and for *Great Britain*, inasmuch as it cannot be supposed that they would, contrary to the Interest of this Kingdom, continue the Prohibition, if it were found that there were any Superfluity of Grain, although *Great Britain* were not in Scarcity: Neither can it be supposed, that, if *Great Britain* were in Scarcity, his Majesty's Substitutes and the Privy Council of this Kingdom would hesitate, upon any Intimation of it, to suspend the Prohibition, if it could be done without the immediate Ruin of this Country; at the same Time that they would have had an Opportunity, if the Consequence were likely to be fatal, of remonstrating against such a Desire, and removing Misrepresentations at least; which they may not, as the Bill now stands, since the Power of Suspension is, by the Alteration, communicated to another Body, which may exercise it without their Knowledge or Intervention.

3dly, Because that the Governors and Council of *Ireland*, to whom, if the Bill had not been thus altered, the Execution of this suspending Power must have fallen, are Persons, in general, who have been born or who reside in this Country, who have many Ties to it, who must know and who must partake of its Necessities, and who, if they were guilty of Misconduct, would be censurable by us. From all which Circumstances, they are preferable to the Council of another Kingdom, who have no Ties to us, who have no Knowledge of our Circumstances, who would not partake in our Distresses, and whose Misconduct would not fall properly within our Animadversion.

4thly, Because we conceive, if it were convenient that the Legislature should be constantly assembled, that the Power of suspending any Law ought only to be vested in the Legislature which made it; but, as it is not convenient that the Legislature should be constantly assembled, whereas it is necessary that the executive Power should always subsist, the Power of Suspension, where such a Power is thought necessary, is, for Convenience, transferred to the executive Power of the Country to which the Law belongs, but cannot constitutionally be transferred to the executive Power of
any

any other Country; and therefore we conceive, that the Power of suspending this Law could only be constitutionally deposited in the executive Power for this Kingdom of *Ireland*.

5^{thly}, Because, although the Crowns of *England* and *Ireland* be united, yet *Ireland* is a distinct Kingdom, and, as such, has a distinct and separate executive Power, as well as a distinct and separate legislative Power. But the proper and distinct Executive of this Kingdom is his Majesty as King of *Ireland*, or his Substitute or Substitutes, with the Privy Council of *Ireland*, and not his Majesty in the Privy Council of *Great Britain*, inasmuch as the Privy Council of *Great Britain* is his proper and distinguishing Adjunct, as King and Executive of *Great Britain*, and is, in no Sort, applicable to his Majesty, as King and executive Power of this his Kingdom of *Ireland*.

6^{thly}, Because we conceive it extremely dangerous to admit any Novelty which may tend to confound this Distinction, so necessary to be preserved, not knowing what Use may be made hereafter of such Innovations.

7^{thly}, Because it is an improper and unconstitutional Restriction upon his Majesty, as King and Executive of *Ireland*, to subject him, as this Bill thus altered

altered does, to advise with his *British* Privy Council, with Respect to an Act in which he is concerned merely as the Executive of this Kingdom of *Ireland*.

Westmeath,

Charlemont,

Grandison,

Longford.

Louth,

This Protest was attended by an extraordinary Circumstance, which ought not to pass unnoticed in this Work. The Lord *Grandison* was indisposed at the Time of the Division, and sent his Proxy to the Lord *Charlemont*; and, in Case of a Protest, he also desired that noble Lord to protest for him. But, upon this latter Point, a Question arose in the House, Whether a Lord could protest by Proxy? The House, at first, determined that he could not; and it seemed plausible: For, as the Reasons contained in every Protest indisputably arise out of the Debate, an absent Lord could not delegate his Subscription to Arguments, which it must be supposed he did not know. Application, however, was made to certain Persons in *England*, who were presumed to be best acquainted with the Orders and Privileges of the *British* House of Lords, for Precedents of protesting by Proxy. Diligent Search was made, and none such could be found; but, in the mean Time, strict Examination was made into the Lords' Journals in *Ireland*, and
five

five Instances were found; which being produced, the House admitted the Right of protesting by Proxy.

Die *Novembris, 1767.*

A Motion was made, and the Question put, that an humble Address be presented to his Majesty, desiring his Majesty would be graciously pleased to appoint a Lord Chancellor of this Kingdom:

It passed in the Negative.

Dissentient

Because we conceive, that on the present Occasion, when Delay is the Grievance of which we complain, the previous Question is peculiarly improper, as it is merely a Measure of Procrastination.

That Delay, in an Affair of this Nature, may be attended with the worst Consequences, we conceive, because the Execution of the Office of Lord High Chancellor by Commission, is a defective Execution of it; inasmuch as the Commission being executed by the Common Law Judges of the Land, two at a Time, taken each from different Courts in a weekly Rotation, is attended with the following Inconveniences:---First, that though the inferior Judges were always of equal Eminence with one who should be appointed Chancellor in his own Person, yet they are not only not conversant with the Practice of the Court of Chancery,

Chancery, but habituated to a different Practice. Secondly, that they cannot fulfil the Duties of another Court, but by relinquishing their own. Thirdly, that taking away one Judge from a Court, is, in some Circumstances, an irreparable Loss; that, at best, but two can remain; that Causes of the greatest Importance will be deferred till the Bench is full; that even in such Causes as are heard by the two Judges that remain, if there be a Difference of Opinion, there is not a third to decide; and that Sicknefs, or Connexion with certain Causes, may leave the Court with but one Judge, and sometimes without any. Fourthly, that long and important Causes in Chancery can seldom be decided in a Week, and therefore the Arguments urged in one Week, before one Set of Commissioners, must be repeated before another Set in a subsequent Week; that, by this endless Protraction and Expence, Persons are discouraged from proceeding, and the more as the Commissioners cannot be expected to be very ready to decide, inasmuch as Reputation is more easily lost than gained in such Circumstances; and as the Cause would probably be but little advanced by their Decision, since the Party defeated would always apply to the Chancellor, when appointed, for a Re-hearing. Fifthly, that these Incon-

veniences

veniences are aggravated by the State of Business in that Court, at the Time of the late Lord Chancellor's Death, whose great Abilities had drawn such a Redundancy of Business into that Court, that, notwithstanding his Affiduity, a long Arrear of Causes, we understand, remained undischarged. That, therefore, the Execution of the Office of Lord High Chancellor by Commission, is attended with this great Evil, that without supplying, to Effect, the Court of Chancery, it dismembers and mutilates all the Courts of Law, and disturbs and obstructs the whole Course of Justice.

Because, from a thorough Confidence in his Majesty's most gracious Disposition toward his most affectionate People, so peculiarly manifested by the Declarations made to us, in his Name, by his Excellency the Lord Lieutenant, from the Throne, at the Opening of this Session of Parliament, we are convinced that his Majesty would lend a favourable Ear to our earnest Sollicitations, and would gratify the Desires of his loyal People, by appointing a Lord Chancellor for this Kingdom. Nor can we think it otherwise than a just Tribute of our Respect to his Majesty, and the best Mark of our firm Reliance on his gracious Declarations, to inform his Majesty, without Delay, of a Grievance

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which

which so essentially affects the Rights and Properties of his most faithful Subjects, and the due Execution of Justice in this Kingdom.

Tyrone, Charlemont, Mountmorres.

Die Martis, 5^o die Decembris, 1769.

The following Resolutions being proposed:

That, by an Act of Parliament, the 10th of *Henry* the Seventh, it is enacted, that all Judicial Officers shall hold their Places during Pleasure. That the Chancellor of the Exchequer is a judicial Officer.

That an humble Address be presented to his Majesty, beseeching him to give Orders to his Attorney General, to issue a *Scire Facias* against a Patent, by which *William Gerard Hamilton, Esq;* is made Chancellor of the Exchequer for Life.

That, by an Act of Parliament, the 10th of *Henry* the Seventh, it is enacted, that all Judicial Officers shall hold their Places during Pleasure. And that it appears, that the Clerk or Master of the Rolls is expressly enumerated in the Act as a Judicial Officer.

That an humble Address be presented to his Majesty, beseeching him to give Orders to his Attorney General, to issue a *Scire Facias* against a Patent, by which the Office of Clerk or Master of the Rolls
has

has passed to the Right Honourable *Richard Rigby, Esq;* for Life.

A Motion being made, to adjourn the Consideration of the said Resolutions till the first of *August*,

And a Debate arising thereupon,

The Question was put, and the House divided. The Lord Viscount *Clare* reported, that the Contents below the Bar were 22, and the Not Contents in the House were 9.

It was resolved in the Affirmative.

A Motion being made, that the following Queries be referred to the Judges:

Whether the Chancellor of the Exchequer be a Judicial Officer immemorially in both Kingdoms? Whether it is enacted by the 10th of *Henry* the Seventh, that all Judicial Officers shall hold their Places during Pleasure? Whether a Patent, under which the Office of Chancellor of the Exchequer has passed for Life to *William Gerard Hamilton*, be legal?

And a Debate arising thereupon,

The Question was put, and the House divided. The Earl of *Lanesborough* reported, that the Contents below the Bar were 5, and the Not Contents in the House were 24.

It passed in the Negative.

A Motion being made, that the following Queries be referred to the Judges:

Whether the Master of the Rolls be a Judge in *England* immemorially? Whether the 3d of *George* the Second is not declaratory of the Common Law? Whether, if he is a Judge at Common Law in *England*, he is not also a Judge here? Whether by the 10th of *Henry* the Seventh it is not enacted, that all Judicial Officers shall be only during Pleasure? Whether in that Act of Parliament he is not expressly the Clerk or Master of the Rolls, is not enumerated expressly as a Judicial Officer? Whether a Patent, under which that Office passed to the Right Honourable *Richard Rigby* for Life, be legal?

It passed in the Negative.

Dissentient

1st, Because we conceive, that it is in the highest Degree inexpedient, to procrastinate the Consideration of a Measure, the high Importance and the Propriety of which appears to us to be clearly evident, for these following Reasons:

2^{dly}, Because it is enacted, by an Act of Parliament of the 10th of *Henry* the Seventh, in the following Words: "*Item*,
 " praying the Commons, that in Consi-
 " deration of the great and manifold In-
 " conveniences that late were attempted
 " there, contrary to all natural Allegi-
 " ance, to the King's grievous Displea-
 " sure, by the Procurement, Counsel,
 " and

“ and Exhortation, of such Officers as
 “ late had Administration of Justice un-
 “ der the King in that Land, and such as
 “ were Officers Accomptants, and had
 “ their Offices granted unto them by Pa-
 “ tent for Term of Life, by Reason
 “ whereof they were the more bolder to
 “ misuse their such Authority: There-
 “ fore be it ordained, enacted, and esta-
 “ blished, by the Authority of this pre-
 “ sent Parliament, that from this Time
 “ forward no Manner of Person or Per-
 “ sons, that shall have Ministration of
 “ Justice, that is for to say, the Chancel-
 “ lor, the Treasurer, Judges of the King’s
 “ Bench and Common Pleas, the Chief
 “ and Secondary Baron of the Exche-
 “ quer, the Clerk or the Master of the
 “ Rolls, and all Manner of Officers Ac-
 “ comptants, have any Authority by Pa-
 “ tent in their such Offices, but only at
 “ the King’s Will and Pleasure. And if
 “ any Grant, afore this Time or hereafter,
 “ be made, of any of the said Offices,
 “ unto any Person or Persons there, con-
 “ trary to the Premisses, the same to be
 “ deemed void and of none Effect in the
 “ Law. And by the same Authority, all
 “ and every maner Act or Acts, before
 “ this Time made, to the contrary here-
 “ of, to be revoked, and deemed void
 “ and of none Effect in the Law.”

3dly,

3dly, Because we conceive, that the Chancellor of the Exchequer is meant by the Word in the Act, and not the Lord High Chancellor, for the following Reasons: Because it would be needless to ordain that by Statute, which was obtained by Custom before; and the History of those Times informs us, that *Alexander Plunket* was made Chancellor in the Year 1492, by the Duke of *Bedford*, Lord Lieutenant of *Ireland*; and because that in the subsequent Session, in the Year 1494, he was removed from his Office by Sir *Edward Poynings*, the Author of this Law, and the Seals were given to the Prior of *Lanthony*; (Vide List of *Irish* Chancellors, by Sir *I. Ware*, Vol. II. 109.) though he had been appointed by the *English* Interest, and tho' no Crime or Misbehaviour was alledged against him. Because this clearly evinces, that the Seals were granted during Pleasure in the Times immediately preceding this Law, and consequently an Ordinance for that Purpose would be needless.

4thly, Because we conceive, that the Chancellor of the Exchequer is virtually comprised under the general Words in the Statute, Officers Accomptants, as a principal Revenue Officer.

5thly, Because, admitting that he did not come under the enumerative Words of

of the Statute, he certainly is comprehended under the general Words, Administration of Justice, as a Judicial Officer, and consequently his Patent for Life is void.

6thly, Because Sir *Edward Coke* founds the Court of Equity, in the Exchequer, upon the Office of Chancellor of the Exchequer in these Words: " Hereupon it " is collected, that seeing there has " been, Time out of Mind, a Chancellor " of the Exchequer, it follows, that there " should also be, in the Exchequer, a " Court of Equity."—4th Institute, 119.

7thly, Because it appears, that this Office has been granted in *England* immemorially during Pleasure; that the Patents, during the Reigns of *Edward* the First and Second, were at Will; (vide *Madox's History of the Exchequer*, 51) and that *John Desandale* acted there as a Judge at that Time. And because, by an Act of Parliament of the 10th of *Henry* the Seventh, Chap. 22. all the *English* Laws and Customs, previous to that Period, are made of Force in *Ireland*.

8thly, Because the Chancellor of the Exchequer has always been esteemed a Judicial Officer, and all Bills on the Equity Side should be directed to the Chancellor, Treasurer, and Barons of the Exchequer. And it was affirmed by the Lords of *Ireland*, in the great Cause of
Sherlock

Sherlock and *Annesley*, upon the Deposition of *Daniel Redding*, Esq; Deputy Remembrancer, sworn at the Bar, that all Bills or Orders, on the Equity Side, should be directed to the Chancellor, Treasurer, and Barons of the Exchequer; if otherwise directed, that it would be Error; and that the Barons of the Exchequer were not warranted in obeying an Injunction directed only to them, and in making Use of the Names of the Chancellor and Treasurer of the Exchequer.—Vide State Trials, Vol. VI. 190, 191, and Lords Journal of the 28th of July, 1719, Page 319, 483.

9thly, Because it has been customary for the Chancellor of the Exchequer to preside at the Commencement of the Term; and because a Gentleman, lately possessed of that Office, presided, to the great Ease and Benefit of the Suitors in that Court; and because the Absence and Neglect of the first Officer of the Exchequer, is a great Loss to all the People of *Ireland*.

10thly, Because that the Master of the Rolls being expressly enumerated as a Judicial Officer in the Act of Parliament, we conceive, that the Patent, by which that Office passed to *Richard Rigby*, Esq; for Life, is void.

11thly, Because it appears, that the Master of the Rolls is a Judicial Officer
 immemorially

immemorially in both Kingdoms; because, though it was disputed formerly in *England*, whether he derived his Power of hearing and determining Causes, in the Absence of the Chancellor, from Prescription or from special Commission, the 3d of *George* the Second, Chap. 30, to quiet those Questions, ratifies all Decrees made by him or his Predecessors, in the Absence of the Chancellor, and declares, that he has been a Judicial Officer Time immemorial; because, if he is a Judge at Common Law in *England*, he is also a Judge here, by the 10th of *Henry* the Seventh.

12thly, Because Sir *Edward Coke* expressly says, "that in the Absence of the Chancellor, he heareth Causes and giveth Orders," 4th Institute, 97. Because his Opinion in this Respect has the greatest Weight, as not likely to enlarge an equitable Jurisdiction.

13thly, Because no Reason can be originally assigned, for the Separation of the judicial and ministerial Power of this Officer; and because that the Clerk or Master of the Rolls are synonymous Terms, resulting from this Circumstance, that it was antiently the Custom to appoint the First Clerk, or Master in Chancery, Master of the Rolls.

14thly, Because, though the Administration of Justice be expressly excepted

in the Patent, we conceive that the Crown cannot sever the judicial from the ministerial Power of an Office; since, if it can do it in the Case of one, it can do it in any Office, where they have been united.

15thly, Because the Residence of this Officer was esteemed necessary formerly, seeing that one *Henington*, a Master in Chancery in *England*, about the Time of *Edward* the Third, resided here as Master of the Rolls, and was allowed to hold his Place, as Master in Chancery in *England*, by Deputy.

16thly, Because it appears, that *Christopher Wandesford*, Esq; Master of the Rolls, attended the House as a Judge, and that he read the Lord Deputy *Wentworth's* Commission for holding a Parliament, in the Year 1634, by his Order, standing by the Wool-Sack, among the Judges.—
Lords Journal, 1634, 8.

17thly, Because it appears, that a Petition was presented to his Majesty, (King *Charles* the First) in the Year 1640, by the Lords of *Ireland*, representing, that
“ the Master of the Rolls was a Coun-
“ cellor of State, an Officer of great
“ Trust and Consequence, to give Ad-
“ vice to the Council Board and in the
“ Court of Chancery; and praying him,
“ that that Office might not be granted to
“ any one who *had not sufficient Estate in*
“ *this*

“ *this Country, and who had not Experience,*
 “ *Quality, or Reputation in the Common-*
 “ *wealth, sufficient to discharge the said*
 “ *Trust faithfully, nor to answer for any*
 “ *Misdemeanors that may be committed, in*
 “ *the undue Execution of the said Place.*”
 Lords Journal, 1639, 411.

18thly, Because that this Disadvantage attends granting Judicial Officers for Life, that Age or Infirmary may disqualify them for their Offices.

19thly, Because, though this Office has frequently been granted for Life, since the 10th of Henry the Seventh, yet no Inference can be drawn from thence, as Custom cannot be pleaded against an Act of Parliament;—1st Institute, 115.

20th, Because we humbly conceive, that Judicial Officers should be selected from Men of Knowledge, and of the Profession of the Law.

21st, Because a legal Disquisition of this Subject was studiously avoided in the Debate, and because that a Reference to the Judges was denied, upon a Presumption that this Enquiry might come before them in another Capacity; an Objection that would operate equally well in every other Case, since there is no legal Point which may not be cognizable in their respective Courts.

22d, Because we conceive, that the Absence of these two great Judicial Of-

ficers is a heavy Grievance to this Country, creating an Accumulation of Business in the Chancery, deferring Suits for Want of an Assistant, in Case of the Absence or Indisposition of the Chancellor. —For these Reasons we have thought it our Duty, to transmit Reasons, which to us appear irrefragable, to the unerring Judgment of the Public and of Posterity, and to exempt ourselves, in the Minds of thinking Men, both here and in another Kingdom, from that Obloquy which falls upon the Legislature of this Country, for their Acquiescence under the evident Violation of the express Words of an Act of Parliament.

<i>Mountmorres,</i>	<i>Powercourt,</i>
<i>Moir,</i>	<i>Southwell,</i>
<i>Charlemont.</i>	<i>Longford,</i>
<i>Louth,</i>	<i>Lisle.</i>

*Die Sabbati, 23^o die Decembris, 1769.**

A Bill, intituled, An Act for granting to his Majesty the several Duties, Rates, Impositions, &c. (and for augmenting the Army in *Ireland*) being read a third Time,

The Question was put, whether this Bill shall pass?

It was resolved in the Affirmative.

Dissentient

* We have placed this Protest one Day out of Order, because the two subsequent Papers bear a Relation to each other.

Dissentient

1st, Because we conceive, that the Proposition of an Augmentation is altered in Form, not in Fact, and because it was not to the Appearance, but to the Substance and Body of the Measure, that we gave our Negative last Session.

2^{dly}, Because, when we reflect upon the Ability and Numbers of the People of *Ireland*, we think it will be a very extraordinary Exertion, in the Time of Peace, to increase our Army to within 2000 Men of the Peace-Establishment of *Great Britain*.

3^{dly}, Because we cannot help considering an Increase of a standing Army in *Ireland*, as a dangerous Engine in the Hands of an *English* Minister.

4^{thly}, Because it was this Reason that induced the *English* Legislature, in the Year 1699, to limit the Troops in *Ireland* to 12,000 Men, against the express Wish of their Deliverer.

5^{thly}, Because, when the Fears of Men solicited an Augmentation of the *Irish* Army in the Year 1745, by the wise and disinterested Representations of the Chief Governor, the Earl of *Chesterfield*, it was laid aside in the House of Commons.

6^{thly}, Because this Transaction has been considered as peculiarly laudable, in

in the unparalleled Administration of that incomparable Nobleman.

7thly, Because, if Time and Experience have verified the Sagacity of those Reasons, and shewn that there was no Necessity for more than 12,000 Men, in the Times immediately subsequent to the Revolution, nor in those of a *Scotch* Rebellion, we cannot conceive it expedient now, when the late belligerent Powers of the Western Parts of *Europe* are lulled into the most profound Peace and Security.

8thly, Because, from an Use that was made of a Part of the *Irish* Army in *North-America*, immediately after the late Proposal of an Augmentation, we are apprehensive of a Design of Administration, extremely injurious to the great commercial Interests of the *British* Empire.

9thly, Because, upon the whole, we conceive that this Measure will be dangerous.---A two-edged Sword, placed in the Hands of an *English* Minister, between the Liberties of *Great Britain* and *Ireland*.---Dangerous to our Fellow-Subjects in *America*.---Detrimental to the good Understanding, which will, we hope, ever subsist between the two Kingdoms.---Extending the Influence of Prerogative.---Enlarging a devouring, increasing Expence upon the People of *Ireland*.

Ireland.---An inadequate Defence.---Preventive, as a bad Substitute, of the only true, inalienable, constitutional, comprehensive Defence, a national Militia.

10thly, For these Reasons, we have thought it our Duty to transmit our Reasons to the Public and to our Successors. And, because, lastly, we cannot help anticipating many Evils in our Minds, from an Increase of the standing Army, which we pray God the *British* Empire and Posterity may never feel.

Mountmorres, Longford.

Die Veneris, 22^o die Decembris, 1769.

A Motion being made, and the Question put, That it be an Instruction to the Speaker of the House, that no Protest but that of a Lord of Parliament, and that where the Lord protesting had taken a Part, either in Person or by Proxy, in a Debate, be suffered to be entered upon the Journals of this House;

It passed in the Negative.

Dissentient

1st, Because we conceive, that it is the sole and exclusive Right and Privilege of a Lord of Parliament, and Member of this House, to have his Protest entered on the Journals of this House; and that even a Lord of Parliament, and a Member of this House, cannot have his Protest so entered, except upon a Matter previously

previously in Question before this House, wherein the Lord protesting took Part with the Minority, either in Person or by Proxy.

2dly, Because we conceive, that this Regulation of the Privilege of protesting stands upon the same Principle; in Consequence of which, this Privilege hath obtained among the Lords, and not among the Representatives of the People. The latter, we apprehend, are considered by the Constitution as actuated and justified by the Sentiments of those whom they represent; whereas the Lords, who act not as Deputies, but in their own Right, are more personally responsible for their Conduct to Posterity. The Practice of a permanent Justification also seems to have been deemed a more necessary Guard upon a Body, whose Power was permanent. Hence we conceive the Privilege of protesting arose, that a Lord, against whom the Majority had declared, might have an Opportunity of vindicating himself to future Times; which the original Custom of inserting the Name of each Lord on the Journals, with the Part he had taken in the Question, rendered more necessary. And we therefore apprehend, as it would be absurd for a Lord to justify his Conduct where he had not acted, that the Privilege of protesting hath

hath been, by Reason as well as Practice, confined to Cases, in which the Lord protesting had taken a Part, and in which, upon Question, the Majority had been of a different Opinion.

3^{dly}, Because we conceive, that the Earl of *Strafford*, who first attempted, and that but in a single Instance, to enter his Protest, as no chief Governor, upon the Journals of this House, was a Person of such an arbitrary Spirit, and the Times in which he lived of so bad Example, and his said Protest so informal and faulty in itself, that such his Proceeding ought not to be considered as a Precedent.

4^{thly}, Because we apprehend, that the only subsequent Instance, to wit, the Protest of Lord *Sidney*, which was made in Heat by that Governor, whose Conduct was disapproved on his Recall to *England*, which soon followed, and founded upon the former Example; which ought not to have been imitated, was still more irregular and improper, inasmuch as it related to a Matter which had never been before this House, and respected the Privileges and Proceedings of the other House of Parliament.

5^{thly}, Because we conceive it to be peculiarly necessary, at this Time, to express our Sentiments upon this Subject, when we have Reason to apprehend,

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that

that it is intended that a Protest shall be entered upon the Journals of this House, relative to the Proceedings and Privileges of the other House of Parliament, in Imitation of the last-mentioned Protest.

6thly, Because we apprehend, that we ought not to suffer this distinguishing Privilege of the Lords to be invaded or assumed by any Person, in whatever Station; and that we ought particularly to resist any such Attempt, when it may be thought to involve a Breach of the Privileges of the other House of Parliament also, and may therefore be productive of Dissentions between the two Houses.

*Louth,
Charlemont,
Powerscourt,*

*Mountmorres,
Longford.*

His Excellency George, Lord Viscount Townshend, Lord Lieutenant General and General Governor of Ireland, his Speech to both Houses of Parliament at Dublin, on Tuesday the 26th Day of December, 1769.

My Lords and Gentlemen,

The Attention you have shewn to the great Objects which have been particularly recommended by me to your Consideration, and the Provisions which have been made for the Safety and Security

curity of this Kingdom, call upon me not only to express my Approbation of, but to thank you, as I now do, for your Conduct in these Particulars.

Gentlemen of the House of Commons,

It is with great Pleasure that I thank you, in his Majesty's Name, for the Supplies which you have granted, and the Provision which you have made, for the present Establishment, the public Credit, and the Safety of this Kingdom.

When I first met you in Parliament, as I knew and could rely upon it, that nothing could move from his Majesty, but what would be expressive of his constant and ardent Desire to maintain and preserve every constitutional Right to this People, I little thought that any Thing would happen, during the Course of this Sessions, that could possibly affect the just Rights of his Majesty and of the Crown of *Great Britain*, so as to afford his Majesty any just Cause of Dissatisfaction, and make it necessary for me, specially, to assert and vindicate those Rights.

It is, therefore, with great Concern, that I have seen and observed in the Votes and Journals of the House of Commons, printed by your Order, a late Proceeding by you, of such a Nature and of such Effect, with Respect to the Rights of his Majesty and the Crown of

Great Britain, as to make it necessary for me, on this Day and in this Place, to take Notice of, and animadvert thereupon. I mean the Vote and Resolution of the 21st Day of *November* last, by which you, Gentlemen of the House of Commons, declare, That a Bill, intituled, An Act for granting to his Majesty the several Duties, Rates, Impositions and Taxes, therein particularly expressed, to be applied to the Payment of the Interest of the Sums therein provided for, and towards the Discharge of the said principal Sums, in such Manner as is therein directed, which had been duly certified from hence to his Majesty, and by his Majesty had been transmitted, in due Form, under the Great Seal of *Great Britain*, and which had been read a first Time by you, and which was rejected by you on that Day, was so rejected, because it did not take its Rise in your House.

This Vote and this Resolution of yours, declaring that the said Bill was rejected, because it did not take its Rise in your House, being contrary to the Acts of Parliament of this Kingdom, of the 10th of *Henry* the Seventh, and the 3^d and 4th of *Philip* and *Mary*, and the Usage and Practice ever since, and encroaching upon the just Rights of his Majesty and the Crown of *Great Britain*, to
transmit

transmit such Bills to be treated of and considered in Parliament here; I am now to assert his Majesty's royal Authority, and the Rights of the Crown of *Great Britain* in this Respect, and in such a Manner as may be most public and permanent; and therefore I do here, in full Parliament, make my public Protest against the said Vote and Resolution of the House of Commons, by which you, Gentlemen of that House, declare, that the said Bill was rejected by you, because it did not take its Rise in your House, and against the Entries of the said Vote and Resolution, which remain in the Journals of the House of Commons. And I do require the Clerk of this House now to read my said Protest, and to enter it in the Journals of this House, that it may there remain to future Ages, as a Vindication of the undoubted Right and Authority of his Majesty, and of the Rights of the Crown of *Great Britain*, in this Particular.

In this Protest, I think myself warranted in all Respects, and if it needed, as I conceive it doth not, any other Strength than that which it derives from the Statutes which I have mentioned, and from the Usage and Practice ever since, it would be found in that Precedent which appears in the Journals of this House of the 3d Day of *November*,
1692,

1692, under the Reign of that glorious and immortal Prince, King *William* the Third, the great Deliverer of these Kingdoms, and the constant and magnanimous Asserter and Preserver of the civil and religious Rights of Mankind.

The following Protest was then read by the Clerk of the House; after which both Houses were prorogued to the 20th of March, 1770.

TOWNSHEND.

Whereas, at a Parliament holden at *Drogheda*, in the 10th Year of the Reign of King *Henry* the Seventh, an Act was made, for and concerning the Order, Manner, and Form of Parliaments, to be holden and kept in the Realm of *Ireland*; and by an Act made at a Parliament holden at *Dublin*, in the 3d and 4th Years of King *Philip* and Queen *Mary*, it was ordained, enacted, and established, that no Parliament should be summoned or holden within this Realm of *Ireland*, until such Time as the Lieutenant, Lord Deputy, Lord Justice, Lords Justices, chief Governor or Governors, or any of them, and the Council of this Realm for the Time being, should have certified the King and Queen's Majesty, their Heirs and Successors, under the great Seal of this Realm of *Ireland*, the Considerations,

derations, Causes, and Articles of such Acts, Provisions, and Ordinances as by them should be thought meet and necessary to be enacted and passed here by the Parliament, and should have received again their Majesties' Answer, under the Great Seal of *England*, declaring their Pleasure, either for passing the said Acts, Provisions, and Ordinances, in the Form and Tenor as they should be sent into *England*, or else for the Change or Alteration of them, or any Part of the same; and that as well after every Authority and Licence sent into the Realm of *Ireland*, for summoning and holding a Parliament, as also at all Times after the Summons, and during the Time of every Parliament, to be thereafter holden within this Realm of *Ireland*, the Lieutenant, Lord Deputy, Lord Justice, Lords Justices, chief Governor or chief Governors, and Council of this Realm of *Ireland* for the Time being, should and might certify all such other Considerations, Causes, Tenors, Provisions, and Ordinances, as they should further think good to be enacted and established, at and in the said Parliament, to the King and Queen's Majesty, their Heirs and Successors, under the Great Seal of this Realm of *Ireland*; and such Considerations, Causes, Tenors, Provisions, and Ordinances, or any of them, as should be thereupon

thereupon certified and returned into this Realm, under the Great Seal of *England*, and no others, should and might pass and be enacted here, in any such Parliament within this said Realm of *Ireland*, in Case the same Considerations, Causes, Tenors, Provisions, and Ordinances, or any of them, should be agreed or resolved on by the three Estates of the said Parliament.

And whereas in this present Sessions of Parliament, a Bill, intituled, an Act for granting to his Majesty the several Duties, Rates, Impositions, and Taxes, therein particularly expressed, to be applied to the Payment of the Interest of the Sums therein provided for, and towards the Discharge of the said principal Sums, in such Manner as is therein directed, which had been certified by us the Lord Lieutenant of this Kingdom, and by the Council of this Kingdom, unto the King's Majesty, under the Great Seal of this Kingdom, and by his Majesty approved of and returned into this Kingdom, under the Great Seal of *Great Britain*, and by us sent to the House of Commons, to be considered of in this present Parliament; the said Commons, having the said Bill before them, did read the said Bill the first Time on the 21st Day of *November* last; and on the same 21st Day of *November*, a Motion being

being made in the said House, and the Question put, that the said Bill be read a second Time on the Morrow Morning, it passed in the Negative; and afterwards, on the same 21st Day of *November*, another Motion was made in the said House of Commons, and the Question put, that the same Bill be rejected, it passed in the Affirmative; and afterwards, on the same 21st Day of *November*, a Motion was made in the said House of Commons, and the Question put, that the said Bill is rejected, because it did not take its Rise in that House, it was carried in the Affirmative; and the said House of Commons thereupon the same Day resolved, That the said Bill was rejected because it did not take its Rise in that House. All which Motions, Questions, Votes, Resolutions, and Proceedings, appear to us in the Journals or Votes of the said House of Commons, printed and published by and under their Order and Authority. And which Vote and Resolution of the said House of Commons, declaring, that the said Bill was rejected because it did not take its Rise in that House, do tend to exclude his Majesty, and the Crown of *Great Britain*, from the Right of transmitting any Bills, for granting to his Majesty and his Successors, Money or other Aids, and are not consistent with, but contrary to, the said recited Acts of Parliament,

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liament, and the Usage and Practice ever since the making thereof, and do in Effect intrench upon his Majesty's royal Power and Authority, and the just and undoubted Rights of the Crown of *Great Britain*.

We, therefore, the said Lord Lieutenant, as well to assert the just Rights of his Majesty and the Crown of *Great Britain*, (whereof we are and ever will be most tender) in transmitting such Bills, under the Great Seal of *Great Britain*, to be considered of in Parliament, as to discharge the Trust reposed in us, and prevent the Inconveniences which may hereafter happen, by the said Vote and Resolution of the House of Commons, declaring that the said Bill was rejected for the Cause therein mentioned, being made public and remaining in their Journals without any Contradiction or Animadversion; have thought it necessary this Day, in full Parliament, to protest, and we do accordingly protest, against the aforesaid Vote and Resolution of the said House of Commons, made and passed, declaring that the said Bill was rejected because it did not take its Rise in that House, and appearing in their Journals or Votes. And we do assert, protest, and declare, that it is the just and undoubted Right of his Majesty and of the Crown of *Great Britain*, ob-
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serving the Forms in the said several Acts prescribed, to transmit Bills, under the Great Seal of *Great Britain*, for granting of Aids to his Majesty, his Heirs and Successors; which said Bills, so transmitted, ought to be read and considered of by the House of Commons in this Kingdom, without being rejected by the said House on Account only of their not taking their Rise in that House. And therefore the Rejecting of the said Bill, because it did not take its Rise in that House, and the said recited Vote and Resolution of the said House of Commons, declaring that the said Bill was rejected because it did not take its Rise in that House, are not consistent with, but contrary to, the Acts of Parliament herein before-mentioned, and the Practice and Usage in all Parliaments since the making thereof, and also highly derogatory to his Majesty's royal Authority, and the Rights of the Crown.

F I N I S.

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